

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

WHEELABRATOR BALTIMORE, L.P.
1801 Annapolis Rd
Baltimore, MD 21230,

CURTIS BAY ENERGY, L.P.
1501 South Clinton Street, Suite 130
Baltimore, MD 21224,

ENERGY RECOVERY COUNCIL
220 Wilson Boulevard
Suite 310
Arlington, VA 22201,

NATIONAL WASTE & RECYCLING
ASSOCIATION
1550 Crystal Drive
Suite 804
Arlington, VA 22202,

and

TMS HAULING, LLC
6106 Twilight Court
Baltimore, MD 21206,

Plaintiffs,

v.

MAYOR AND CITY COUNCIL OF
BALTIMORE
Baltimore City Hall
100 North Holliday Street
Room 250
Baltimore, MD 21202

Defendant.

Civil Action No. 1:19-cv-01264

COMPLAINT

Plaintiffs Wheelabrator Baltimore, L.P. (“Wheelabrator Baltimore”) Curtis Bay Energy, L.P. (“Curtis Bay”), the Energy Recovery Council, the National Waste & Recycling Association (“NWRA”), and TMS Hauling, LLC (“TMS Hauling”), bring this action for declaratory judgment, preliminary and permanent injunctive relief, and damages and attorney fees against the Mayor and City Council of Baltimore (“City” or “Defendant”), through undersigned counsel and allege as follows:

INTRODUCTION

1. This Complaint seeks to invalidate an illegal effort by the City to force the Wheelabrator Baltimore waste-to-energy facility and the Curtis Bay Baltimore Regional Medical Waste Incinerator, a hospital/medical/infectious waste incineration (“HMIWI”) facility (each a “Facility” and collectively, the “Facilities”) to shut down by imposing extraordinarily low emission limits and other mandates that the City has no authority to require. On February 11, 2019, the Baltimore City Council passed Ordinance 18-0306, known as the Baltimore Clean Air Act, which Mayor Catherine Pugh then signed into law on March 7, 2019. *See* Exhibit A, City Council Bill 18-0306, enacted and codified as Balt. City Health Code §8-110, *et seq.* (hereinafter, the “Act” or “Baltimore Clean Air Act”). This Act is the first effort by the City to regulate air emissions that have been subject to federal and state air quality management under the federal Clean Air Act (“CAA”) for fifty years. The Act is not a good faith effort to regulate air emissions. Rather, it is a targeted attempt to shut down two specific facilities, ignoring all other stationary and mobile sources of air emissions in the City. Baltimore City Councilman Edward Reisinger, who sponsored the Act, stated that it is specifically intended to “shut down Wheelabrator” and declared that

“[Wheelabrator]’s got to be closed.”¹ The Baltimore Clean Air Act directly conflicts with the stringent existing air emissions control requirements the Facilities are currently satisfying under the federal CAA and Maryland air laws and regulations as overseen by the U.S. Environmental Protection Agency (“EPA”) and the Maryland Department of Environment (“MDE”). The Act also directly conflicts with Maryland’s Solid Waste Management Act by forcing the Facilities to either heavily modify their physical plants and pollution control devices which were reviewed and approved by MDE, or shut down, in effect nullifying the Refuse Disposal Permits (“RDP”) issued to each Facility by MDE.

2. The Act imposes extraordinary and unprecedented constraints that do not advance public health, are not science- or fact-based, and in fact are in furtherance of an agenda to close the Facilities regardless of the consequences to residents and businesses in Baltimore City and beyond. The City acknowledges that the Act will at a minimum require the Wheelabrator Facility to close for some indeterminate period of time, and perhaps forever. The Act will also cause the Curtis Bay Facility to shut down at least temporarily to install unnecessary and financially burdensome equipment upgrades. This would harm the environment by restricting safe disposal capacity and impose enormous and unfair costs on the Facility Plaintiffs and more importantly, the City’s and surrounding jurisdictions’ residents and businesses. It also will divert over a hundred thousand tons per year of municipal solid waste to landfills in violation of the City’s Solid Waste Management Plan (“SWMP”), adding many millions of dollars of additional costs on City residents and increasing air pollution associated with diesel trucks transporting waste to landfills

¹ Peter O’Dowd, *Baltimore’s Burning Question: What To Do With Its Trash Incinerator*, (Apr. 25, 2019) <https://www.wbur.org/hereandnow/2019/04/25/baltimore-waste-incinerator-garbage>.

and from decomposition of the waste in the landfill, instead of producing electricity and steam through combustion.

3. For decades, waste-to-energy facilities such as Wheelabrator Baltimore and HMIWI facilities such as the Curtis Bay Facility have been subject to comprehensive air regulations under federal and Maryland air laws that preempt conflicting local mandates like the Act. In the 1990 CAA amendments, Congress required EPA and Maryland to promulgate a continuing series of more stringent air pollution regulations related to both waste-to-energy and HMIWI facilities, which both EPA and Maryland did. Wheelabrator Baltimore and Curtis Bay have continually met those respective requirements. These air pollution laws and regulations, adopted only after EPA and MDE considered thousands of pages of detailed comments from the public, and after voluminous scientific and technical review, are protective of the public health by a significant and scientifically established margin of safety.

4. The City introduced and passed the Baltimore Clean Air Act on a rushed schedule without the technical and scientific evaluation that is a hallmark of air regulations promulgated by MDE and EPA under the CAA. The bill was drafted by a third-party activist who has declared his intent to close Wheelabrator Baltimore and Curtis Bay. It was introduced in the City Council on November 19, 2018, discussed at one public hearing on January 30, 2019, passed by the City Council at two consecutive meetings on February 4th and 11th, 2019, and then signed by Mayor Pugh on March 7, 2019.

5. The Baltimore Clean Air Act imposes air emission limits that are far more stringent than those required by the existing comprehensive federal and Maryland state air laws. Indeed, the limits for the Wheelabrator Baltimore Facility are lower than those applicable for any permit for any waste-to-energy facility in the United States. The Act also imposes burdensome and

technically infeasible continuous emissions monitoring obligations and daily reporting requirements of air emission constituents, despite the fact that EPA-approved methods for direct monitoring of many of these constituents do not exist. The Facilities already employ continuous emissions monitoring systems (“CEMS”) for key pollutants for which CEMS are available and technologically appropriate. Finally, the Act imposes strict liability criminal penalties for any violation of its requirements. This is a major departure from the federal CAA and MDE air laws, which only provide for such penalties in cases of knowing violations of requirements. *See* 42 U.S. Code § 7413(c); Md. Code Ann., Envir. § 2-609.1.

6. Both federal and Maryland law, as well as the Charter of Baltimore City, prohibit local laws like the Baltimore Clean Air Act that conflict with or obstruct state and federal laws, regulations, and permits. Likewise, Maryland law has long barred local law on subjects that the State is actively and comprehensively regulating and where there is a need for uniformity and expertise, like air pollution control and solid waste management. The Act is preempted because it seeks to enter a field of regulations thoroughly occupied by both the federal and state government as administered by EPA and MDE, and essentially nullifies the Facilities’ Title V operating permits, which have been issued pursuant to federal and state law. In addition, the Act – supported by no legislative fact-finding and the thinnest of records – targets Wheelabrator Baltimore and Curtis Bay with the intent of driving them from business in an arbitrary and capricious manner and in a remarkable display of legislative hubris.

7. Both Wheelabrator Baltimore and Curtis Bay’s operations are governed by numerous state solid waste laws and regulations. Maryland law comprehensively legislates the field of solid waste management, setting forth the requirements for municipal waste combustor

permitting, managing the treatment and disposal of solid and medical waste,² and mandating the creation of and requirements for the SWMP that the City must submit for approval. The Act interferes with the state solid waste management framework. The Act also interferes with the Northeast Maryland Waste Disposal Authority's (the "Regional Disposal Authority" or "Authority") governance over regional solid waste management solutions for the Baltimore Metropolitan Region.

8. According to its state-approved SWMP applicable for the years 2013 through 2023, the City disposes of the majority of its residential and commercial waste at the Wheelabrator Baltimore Facility. Each day, Wheelabrator Baltimore processes an average of 2,100 tons of waste from Baltimore City and surrounding counties, making the Facility critical to the City's residents and businesses and the City and state's overall solid waste management scheme. The City's SWMP also relies on Curtis Bay. The SWMP projects that 10,818 tons of medical waste will be produced within Baltimore City in 2019 and 11,257 tons a year by 2023, a substantial portion of which must be disposed at the Curtis Bay Facility. If the City succeeds in shutting down Wheelabrator Baltimore and Curtis Bay under the guise of regulating air emissions, it will effectively revoke MDE's decision to permit the Facilities and impermissibly amend the City's SWMP (and those of nearby counties) without MDE approval. Although the City represented to MDE that the Facilities are necessary for successful implementation of the SWMP, it is now legislatively forcing their closure under the pretext of regulating air emissions through the Act.

² The terms "infectious waste," "medical waste," and "hospital, medical, and infectious waste" are variously used by the following statutes and their implementing regulations: the Federal Clean Air Act, 42 U.S.C. § 7401, *et seq.*; the Maryland Clean Air Act, Md. Code Ann. Envir. § 2-101, *et seq.*; and the Maryland Solid Waste Act, Md. Code Ann., Envir. § 9-101, *et seq.* As used herein, those terms are to be understood as synonymous. For the sake of simplicity, the term "medical waste" will be used throughout.

9. The City does not possess the authority to enact the Baltimore Clean Air Act. Under Md. Code Ann., Envir. § 2-104, a state political subdivision's only option for seeking emission standards more stringent than the federally approved state law, which is what the Baltimore Clean Air Act does, is to request MDE to adopt them. Further, the Maryland Constitution and Charter of Baltimore City do not grant the City the authority to adopt a general law that has effects well beyond the City, as the Act does, and prohibit the City from passing laws that conflict with or are inconsistent with state laws. Maryland has delegated to MDE the authority to regulate air emissions in the state, which it has done comprehensively. The terms of the Act conflict with MDE's carefully crafted regulatory framework and impermissibly intrude on its authority.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (Section 1983 jurisdiction), and 28 U.S.C. § 2201 (declaratory judgment).

11. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367(a) because those claims arise from a common set of operative facts and are so related to the claims in the action within the original jurisdiction of this Court that they form part of the same case or controversy.

12. Venue is proper under 28 U.S.C. § 1391(b) because Defendant is located in the Northern Division of the District of Maryland and a substantial part of the events giving rise to Plaintiffs' claims occurred in the Northern Division of the District of Maryland.

PARTIES

13. Wheelabrator Baltimore operates the only waste-to-energy facility in the City. The facility is located at 1801 Annapolis Road, Baltimore, Maryland 21230, adjacent to the I-95 freeway in an area of the City zoned for heavy industry.

14. Wheelabrator Baltimore is a Maryland limited partnership. Wheelabrator Baltimore operates its Facility pursuant to the terms of its federally authorized CAA Title V operating permit and its state-mandated Refuse Disposal Permit, both issued by MDE in accordance with applicable federal and Maryland air laws and regulations. Wheelabrator Baltimore is contractually obligated to accept municipal solid waste collected from City and surrounding counties' households, businesses, non-profits, and municipal buildings.

15. Curtis Bay owns and operates the only existing HMIWI facility in the State of Maryland. The Facility is located at 3200 Hawkins Point Road, Baltimore, Maryland 21230, adjacent to the I-695 beltway opposite of Baltimore City's Quarantine Road Municipal Landfill, and in an area of the City zoned for heavy industry.

16. Curtis Bay is a Maryland limited partnership. Curtis Bay operates its Facility pursuant to the terms of its federally authorized CAA Title V operating permit and its state-mandated Refuse Disposal Permit, both issued by MDE in accordance with applicable federal and Maryland air laws and regulations. Curtis Bay accepts and treats medical waste from area hospitals, doctors and dentists' offices, nursing homes, emergency responders, medical research facilities, veterinarians, pharmaceutical manufacturers, and other similar operations.

17. TMS Hauling is a trash removal company in Baltimore City with four employees. TMS Hauling is a Maryland limited liability company, with its principal place of business at 6016 Twilight Court, Baltimore, Maryland 21206. TMS Hauling removes municipal waste from

approximately 52 residential apartment complexes and 33 small businesses located within the City, disposing of the waste exclusively at the Wheelabrator Baltimore Facility. The Baltimore Clean Air Act and the closure of the Wheelabrator Baltimore Facility due to the passage of the Baltimore Clean Air Act would harm TMS Hauling.

18. The Energy Recovery Council is a non-profit trade association that is incorporated and has its principal place of business in Virginia. The Energy Recovery Council's purpose is to promote the waste-to-energy industry, as well as the interests of its members in administrative proceedings and litigation that may affect the industry. Its members own and operate the large majority of modern waste-to-energy facilities in the United States and include several dozen business organizations in the municipal waste management and energy fields, including numerous municipalities that are served by waste-to-energy plants. Certain Energy Recovery Council members, including Wheelabrator Baltimore, will be harmed by the Baltimore Clean Air Act.

19. The National Waste & Recycling Association ("NWRA") is a non-profit trade association that is incorporated in Illinois and has its principal place of business in Virginia. NWRA represents the interests of for-profit waste and recycling companies in North America and provides leadership, advocacy, research, education, and safety expertise to promote the North American waste and recycling industries and their goals of providing safe, economically sustainable and environmentally sound services. Certain NWRA members, including Wheelabrator Baltimore and Curtis Bay, will be harmed by the Baltimore Clean Air Act.

20. The City is a municipality and corporation organized and existing under the laws of the State of Maryland and the Charter of Baltimore City. At all times relevant to this action, the City was and is responsible for enacting and enforcing the Baltimore Clean Air Act.

STATEMENT OF FACTS

A. The City Lacks the Legal Authority to Regulate Air Emissions By and Through the Baltimore Clean Air Act

21. The City's legal authority to regulate air emissions is limited by Maryland law. MDE is vested with "jurisdiction over emissions into the air and ambient air quality" and for "monitoring ambient air quality in this State." Md. Code Ann. Envir. § 2-103(b)(1)-(2). MDE "shall adopt rules and regulations that set emission standards and ambient air quality standards" for the state. Md. Code Ann. Envir. § 2-302(b). In Maryland, local government's role with respect to setting air emission and ambient air quality standards more restrictive than the standards set by MDE is limited to requesting that MDE adopt such standards for the locality. Md. Code Ann. Envir. § 2-104(b). Unless MDE adopts a more restrictive standard due to such a local government request under § 2-104, MDE must set the emission standards "based on the goal of achieving emission levels that are not more restrictive than necessary to attain and maintain the national air quality standards." Md. Code Ann. Envir. § 2-302(d)(1)-(2). This is because MDE is required to set ambient air quality standards "that are identical to the standards for pollutants for which national primary or secondary ambient air quality standards have been set by the federal government." Md. Code Ann. Envir. § 2-302(c)(1).

22. Maryland air laws prohibit the City from passing the Act, which purports to set emission standards more restrictive than the federal and state standards, rather than requesting MDE to adopt such standards. Moreover, the City lacks the scientific and technical staff, expertise, and funding of EPA and MDE to evaluate and set emission limits and air quality standards. The only technical evaluation contained in the Act's administrative record is the City's own observation that the Act will likely result in the diversion of thousands of tons of municipal waste from reduction and energy production at the Wheelabrator Baltimore Facility to regional landfills.

The City failed to evaluate whether the Act will benefit public health, and whether this diversion of waste will result in an overall degradation in air quality from increased vehicle emissions, landfill methane gas production, and increased energy demands from customers who directly rely on Wheelabrator's energy production. Nor did the City evaluate whatsoever the Act's potential impact on the health care, research, law enforcement, and manufacturing stakeholders who rely upon the Curtis Bay Facility for disposal services.

B. The Wheelabrator Baltimore Waste-to-Energy Facility and Its Regulation

23. In 1985, Wheelabrator Baltimore began operating the waste-to-energy facility that is targeted by the Baltimore Clean Air Act. The Facility receives non-hazardous, municipal solid waste from homes and businesses in the City and surrounding counties. Since opening, the Wheelabrator Baltimore Facility has processed over 23 million tons of post-recycled solid waste, generated 10 million megawatts of renewable electricity, and recycled 350,000 tons of metals. The Facility processes over 700,000 tons of waste annually on average, and it processed 709,904 tons in 2018. As the City's Department of Public Works ("DPW") candidly admitted in comments on the then-pending legislation, the only potentially viable alternative to disposal at the Wheelabrator Baltimore Facility for the City's solid waste would be landfilling – if landfill space is even available – at great additional expense to the City and other users, with significant adverse environmental impacts.

24. Waste-to-energy facilities are among the most stringently regulated waste disposal facilities in the United States. To ensure that its Facility complies with all applicable regulations and permitting requirements, Wheelabrator Baltimore continuously monitors and records numerous air pollution control environmental parameters every minute of every operating hour, and the data are continuously compiled to ensure that the Facility remains within its permit and operating limits.

25. Wheelabrator Baltimore receives the City's waste pursuant to the terms of Waste Disposal Agreements with the Regional Disposal Authority, an independent state agency that facilitates permitting and financing of solid waste projects in Maryland. In fact, the Wheelabrator Baltimore Facility was initially created when the Authority contracted in 1982 with the City and Wheelabrator Baltimore for the specific purpose of processing waste from the City to produce energy, finding that "it is in the public interest . . . to provide for the economies of scale and opportunities for resource recovery which can be achieved through a regional solid waste disposal facility." City of Baltimore Subdivision User Contract at 1, ¶ B, dated November 3, 1982. The Authority has entered into a separate contract with the City, providing for disposal of the City's solid waste by the Authority at the Wheelabrator Baltimore Facility.

26. The Facility also receives solid waste from other surrounding counties and from private contractors. The Facility uses the solid waste as a fuel to provide renewable energy in the form of electrical power and steam, which lowers greenhouse gas emissions by both offsetting the use of fossil fuels and eliminating methane emissions (a greenhouse gas that is 28 times more potent than carbon dioxide) from landfills. EPA considers waste-to-energy facilities such as Wheelabrator's a "key part of the non-hazardous waste management hierarchy."³ Wheelabrator Baltimore generates renewable energy, reduces carbon emissions by offsetting the need for energy from fossil fuels, thus eliminating methane generation from landfills. A portion of the City's waste that does not go to Wheelabrator Baltimore is disposed of at the City-owned Quarantine Road Landfill ("QRL"). If waste were to be diverted from Wheelabrator Baltimore to remote landfills, there would be significant long-haul trucking and attendant environmental and traffic impacts

³ See Energy Recovery from the Combustion of Municipal Solid Waste (MSW), U.S. Environmental Protection Agency, U.S. EPA, (last accessed April 22, 2019), <https://www.epa.gov/smm/energy-recovery-combustion-municipal-solid-waste-msw>.

along with a significant increase in greenhouse gas emissions from all the landfills where the waste will be disposed.

27. Wheelabrator Baltimore converts 90% of the volume of solid waste it receives into clean, renewable energy and steam, with the remaining 10% reduced to inert ash, which is disposed of in a landfill. Prior to ash disposal, the Facility recovers ferrous and non-ferrous metals, such as iron, steel, copper, and aluminum. Approximately 11,000 tons of recovered metals are sold and recycled into new products annually, displacing the need for mining and processing raw metal ores, and eliminating associated energy consumption environmental impacts.

28. Wheelabrator Baltimore's waste-to-energy Facility is a Tier 1 renewable resource under Maryland's Renewable Portfolio Standard ("RPS"), making it eligible to receive and accumulate renewable energy credits. Md. Code Ann., Pub. Util. § 7-701, *et seq.* Maryland's RPS provides financial incentives to new and clean sources of renewable energy that reduce greenhouse gases and other hazardous air and water pollution – including waste-to-energy. Md. Code Ann., Pub. Util. § 7-704(f)(2). The Maryland General Assembly specifically found in the RPS that "the benefits from renewable energy resources, including long-term decreased emissions, a healthier environment, increased energy security, and decreased reliance on and vulnerability from imported energy sources, accrue to the public at large." Md. Code Ann., Pub. Util. § 7-702(b)(1). Closure of the Wheelabrator Baltimore Facility due to the passage of the Act would conflict with and undermine the state-incentivized RPS benefits.

29. The Wheelabrator Baltimore waste-to-energy Facility consists of three municipal waste combustor units, each able to receive 750 tons per day ("TPD") of municipal solid waste, yielding a Facility-wide capacity of 2,250 TPD. The steam generated by the combustor units is used to power a turbine that generates as much as 46 megawatts of clean, renewable electricity –

the equivalent of powering roughly 40,000 Maryland homes. Further, Wheelabrator Baltimore delivers “green steam” every day to the Baltimore downtown district energy system operated by Veolia North America, which serves more than 255 local businesses.

30. As required by federal and state regulations discussed below and the strict and detailed requirements of its Title V permit, the Wheelabrator Baltimore Facility controls its air emissions using extensive, intricate, and sophisticated air pollution controls. Combustion gases are exhausted through a stack that contains three flues, one for each of the three combustors. Each combustor is equipped with a selective non-catalytic reduction (“SNCR”) system to reduce nitrogen oxides emissions, a slaked lime slurry spray dryer absorber system to control acid gas emissions such as sulfur dioxide, a powdered activated carbon injection system for mercury and dioxin/furan removal, and a high efficiency electrostatic precipitator (“ESP”) to remove particulate matter and trace metals from the exhaust streams. Each stack is equipped with a continuous opacity monitoring system (“COMS”) for monitoring particulate emissions and continuous emission monitoring systems (“CEMS”) for nitrogen oxides, sulfur dioxides, carbon monoxide, and carbon dioxide.

31. Following criteria set in the federal CAA and the Maryland air laws, EPA and MDE utilized their expertise and set emissions standards and other controls for waste-to-energy facilities that fully protect human health and the environment. The CAA mandates multiple, conservative safety factors to ensure that these facilities, which perform a vital public service, protect the public health of the surrounding communities with an adequate margin of safety.

32. In addition to managing much of the City’s solid waste and generating clean energy, Wheelabrator Baltimore provides many economic benefits to the region. It employs 69 Maryland residents, 75% of whom live in the Baltimore area. It also supports 175 additional jobs in

transportation and support services that are connected to the Facility. Furthermore, Wheelabrator Baltimore contributes \$50 million in economic activity annually to the City, Baltimore County, and the state through payroll, purchases of goods and services, and tax payments.

C. The Curtis Bay Medical Waste Incineration Facility and Its Regulation

33. The Curtis Bay Facility began commercially operating in 1991 and accepts for disposal medical waste generated within Baltimore and the surrounding region. According to the City's approved SWMP, the City expects medical waste generators within the City to produce 10,818 tons of medical waste in 2019, most of which will be disposed of at Curtis Bay's Facility.

34. The Curtis Bay Facility is permitted to incinerate a maximum total of 150 tons of medical waste per day. Its two incinerator units share a common stack. Each incinerator has its own pollution control system with a system of dampers that allow either pollution control train to be used with either incinerator. Each incinerator is equipped with secondary and tertiary combustion chambers, a heat recovery boiler, SNCR for control of nitrogen oxides, a dry injection acid gas scrubber, a powdered activated carbon injection system for mercury control, and a fabric filter with passive dioxins/furans emissions control. The stack is equipped with a COMS for monitoring particulate emissions and CEMS for monitoring carbon monoxide, hydrogen chloride, nitrogen oxides, and oxygen content in stack exhaust gases. The COMS and CEMS ensure that the facility operates within parameters that meet the emissions limits of its Title V permit, which are established according to EPA and MDE emissions regulations.

35. In 2018, the Facility processed by incineration approximately 25,000 tons of medical waste. The processed medical waste is rendered safe for disposal at a sanitary landfill as ash. The conversion of medical waste to ash reduces its volume by 90% and its weight by 75%.

The Facility cleans and reclaims reusable sharps and other medical waste containers, further reducing the volume of waste entering landfills.

D. The Federal and State Clean Air Act Framework Regulates Every Aspect of Air Emissions from Waste-to-Energy Facilities and Medical Waste Incinerators.

36. The CAA creates a comprehensive and interlocking series of federal and state air pollution control regulations for all sources of air pollution in the United States, including waste-to-energy and HMIWI facilities. Maryland has codified its own air pollution control laws in line with this framework, and has promulgated corresponding regulations specifically pertaining to waste-to-energy and HMIWI facilities.

37. The CAA requires EPA to set National Ambient Air Quality Standards (“NAAQS”), which are health-based standards for outdoor air for specified “criteria” air pollutants. 42 U.S.C. § 7409. States then prepare State Implementation Plans (“SIPs”) designed to meet these NAAQS. 42 U.S.C. § 7410. After an ambient standard is set for a pollutant at a level that is deemed protective of public health with an adequate margin of safety, EPA designates geographic areas or air quality regions as “attainment” or “nonattainment” based on their compliance with the standard. 42 U.S.C. § 7409. Further, the CAA mandates installation of certain types of air pollution control technology and imposes strict permit requirements that apply to major sources, including waste-to-energy facilities and HMIWI facilities, depending on the size of the facility and the attainment status of the geographic area. These requirements have been incorporated into regulations known as the Prevention of Significant Deterioration (“PSD”) and Nonattainment New Source Review regulations that ensure new facilities do not adversely impact air quality. 42 U.S.C. § 7470, *et seq.*; 42 U.S.C. § 7501, *et seq.*

38. Best Available Control Technology (“BACT”) is required for major new or modified sources in attainment areas. Lowest Achievable Emission Rate (“LAER” – which is the

lowest achievable emission rate at any comparable facility in the country) is required for major new or modified sources in nonattainment areas. In addition, the CAA requires that EPA issue New Source Performance Standards (“NSPS”) for new sources and Emission Guidelines (“EG”) for existing sources of air pollution under Section 111 of the CAA to ensure all sources minimize emissions and help attain and maintain air quality standards. *See* 40 C.F.R. § 60, subparts Cb and Ce.

39. In 1990, Congress passed sweeping amendments to the CAA, significantly increasing the stringency of air pollution controls for sources such as waste-to-energy facilities and HMIWI facilities. Among other things, Congress added a new Section 129 that specifically regulated certain emissions (nitrogen oxides, sulfur dioxides, carbon monoxide, mercury, dioxins, hydrochloric acid, particulates, lead, and cadmium) from all types of solid waste combustors, including waste-to-energy facilities and HMIWI facilities. Section 129 required that EPA supplement Section 111 by promulgating even stricter NSPS for new solid waste combustion units, including waste-to-energy facilities and HMIWI facilities, and EG for existing solid waste combustion units that the states would be required to implement in their own regulations that would then be approved by EPA. Section 129 also requires EPA to review and, if appropriate, revise these standards and requirements in five-year intervals.

40. Further, Section 129 requires that EPA determine that emission levels after the installation of pollution controls required to meet the EG provide an ample margin of safety to protect public health and that there are no remaining or “residual health risks,” in the communities surrounding waste-to-energy facilities and HMIWI facilities, *i.e.*, that residual risk to individuals living in communities around the facilities is less than one lifetime additional cancer case per million people. If there is any remaining risk, EPA must further reduce the EG. This intricate

framework of federal and state laws and regulations protects public health in communities located near waste-to-energy facilities like the Wheelabrator Baltimore Facility and HMIWI facilities like the Curtis Bay Facility.

41. Congress established the Title V operating permit program as part of the 1990 CAA Amendments. 40 C.F.R. § 70. The main purpose of the Title V program is to ensure that all federal and state air pollution emission limits and monitoring, recordkeeping, and reporting requirements are combined into one permit that is subject to public, state, and EPA review. Title V requires facilities like Wheelabrator Baltimore and Curtis Bay to obtain an operating permit, operate in compliance with that permit, and certify at least annually its compliance or noncompliance with all permit requirements. Section 129 also mandated that all solid waste combustion units covered by that provision (which includes waste-to-energy and HMIWI facilities) operate pursuant to a Title V operating permit. Title V requires that EPA and MDE work together to implement the permitting program. EPA published its Title V regulations in 1992; Maryland adopted state implementation regulations and submitted its Title V program to EPA in 1995; and EPA approved Maryland's regulations in July of 1996, making them effective in August of 1996. All regulated solid waste combustion units are required to obtain Title V permits at deadlines established according to EPA's promulgation of EG for each type of unit. Accordingly, MDE is the sole authority for issuing Title V permits for all major sources and solid waste combustion units within the state, including the Wheelabrator Baltimore and Curtis Bay Facilities. COMAR 26.11.03; COMAR 26.11.08 *et seq.*

42. Further, Maryland state law protects public health from air emissions through its own toxic air pollutant ("TAP") regulations, first promulgated in 1988 for pollutants such as trace metals, hydrochloric acid, and dioxins. COMAR 26.11.15, *et seq.* These regulations require that a

facility quantify its emissions of toxic air pollutants, apply best available control technology for toxics, and demonstrate that impacts from those emissions will not adversely affect public health by meeting a specific health risk-based ambient air quality standard for each pollutant. Wheelabrator Baltimore and Curtis Bay submitted initial ambient TAP air quality standard compliance demonstrations in accordance with applicable regulations, and have submitted updated compliance demonstrations as necessary or when requested by MDE. These demonstrations have shown that offsite impacts are well below applicable health risk-based ambient standards.

E. Wheelabrator Baltimore has a Comprehensive Title V Permit Under Federal and State Law that Governs All Aspects of Air Quality.

43. MDE issued an initial PSD air permit to the Wheelabrator Facility in 1983, and a New Source Impacting Nonattainment Area permit in 1984. At the time of permitting, Wheelabrator Baltimore was defined as a “major source” that employed BACT for sulfur dioxides, nitrogen oxides, and carbon monoxide, and LAER for particulate matter.

44. MDE issued Wheelabrator Baltimore its first Title V permit on November 5, 2001 and its current permit on April 1, 2014. The Title V permit is 52 pages and appends a 36-page operating permit fact sheet. *See Exhibit B.* This detailed permit includes emissions limitations and monitoring requirements that reflect the CAA Sections 111 and 129 EG for waste-to-energy facilities as well as BACT and LAER requirements discussed above, operational limitations, and work practices applicable to each combustor located at the waste-to-energy Facility.

45. Specifically, the Title V permit establishes the following emission limits for the Wheelabrator Facility: 205 parts per million, volumetric dry (“ppmvd”)/dscm for nitrogen oxides and, effective May 1, 2019, 150 ppmvd; 29 ppmvd or 75% reduction of sulfur dioxides emissions by weight or volume; 50 µg/dscm for mercury or 85% reduction of mercury emissions by weight; and 35 ng/dscm for dioxin/furans with ESP based control device. Moreover, the Title V permit

requires CEMS monitoring for nitrogen oxides, sulfur dioxides, and carbon monoxide, plus a continuous opacity monitor (COMS), to ensure compliance with emission limits for these pollutants. The permit further requires periodic monitoring of mercury, lead, and cadmium and dioxins/furans using EPA-approved and validated test methods along with continuous monitoring of carbon feed rate, ESP inlet temperature, and steam flow to ensure compliance with the mercury and dioxin/furan limits.

46. In stark conflict with the Title V permit, the Baltimore Clean Air Act requires that a facility's CEMS be operational at all times that the facility is functioning (*i.e.*, 100 percent of the time), and imposes violations for gaps in monitoring of more than thirty minutes. This requirement is physically impossible to meet, and it contradicts the federal and state rules that recognize and allow for necessary downtime including repairs, calibration checks, and adjustments to the monitoring systems to ensure their accuracy. Under federal and state regulations applicable to the Wheelabrator Baltimore Facility, valid emissions data must be obtained for a minimum of 90 percent of operational hours per calendar quarter, and 95 percent of operational hours per calendar year that the facility is combusting municipal solid waste. *See* 40 C.F.R. § 60.38b; 40 C.F.R. § 60.58b; COMAR 26.11.08.08.

47. As mandated by the Title V regulations, the periodic testing and CEMS requirements contained in the permit have been through rigorous state and federal review, subject to public review and comment, and have been determined to be adequate for monitoring emissions and determining compliance with emission limits.

48. The Title V permit further identifies each and every federal and state air law and regulation that is applicable to the Wheelabrator Baltimore Facility. The permit makes no reference

to local air laws, because none existed until Baltimore attempted to countermand the permit through its Baltimore Clean Air Act.

F. Recent Federal and Maryland Laws and Regulations Have Further Tightened Controls on the Wheelabrator Facility.

49. Because the Wheelabrator Baltimore Facility started operating in 1985, it is an existing large Municipal Waste Combustor (“MWC”)⁴ and is subject to the federal EG under 40 C.F.R. § 60, subpart Cb: *Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors that are Constructed on or before September 20, 1994*. EPA promulgated this subpart in 1995 in accordance with Section 111(d) as required by Section 129 of the CAA Amendments of 1990. The State of Maryland, in turn, had the responsibility of developing its own regulations to implement the EG, and subsequently, in 1997, adopted EPA’s EG verbatim in the Code of Maryland Regulations at COMAR 26.11.08.08. All affected waste-to-energy facilities were required to come into compliance with the requirements of the EG by December 19, 2000.

50. At that time, these regulations required that waste-to-energy facilities install Maximum Achievable Control Technology (“MACT”) pollution controls to reduce their emissions of certain pollutants. Pursuant to its requirement to review the regulations every five years, in May of 2006, EPA revised the EG for existing municipal waste combustors. These revisions included more stringent standards for five regulated pollutants, including mercury and dioxin/furans: 50 µg/dscm for mercury or 85% reduction of mercury emissions by weight; and 35 ng/dscm for dioxin/furans for facilities using an ESP system such as Wheelabrator Baltimore. EPA also tightened requirements for the minimum amount of time that continuous emissions monitoring

⁴ As used herein, the terms “municipal waste combustors” and “waste-to-energy” facilities are synonymous.

devices be online. Maryland incorporated these EPA amendments verbatim in October 2007, and the revised standards became effective on April 28, 2009.

51. In 2017, MDE conducted a rulemaking to further tighten its regulations regarding waste-to-energy facilities and lower the nitrogen oxides emission limit pursuant to the federally enforceable SIP in order to meet the federal ozone ambient air quality standard. Explicitly recognizing that “MDE has the authority to set NO_x emission limits,” on July 11, 2017, the Baltimore City Council passed Resolution 17-0034R, requesting that MDE set a nitrogen oxides emission limit of no higher than 150 ppmvd for the Wheelabrator Facility. By passing this and similar resolutions, Defendant City followed the narrow – and only – pathway allowed under the State air laws for Baltimore to seek changes to federal and state air emissions regulations: to ask MDE to revise the regulations. Md. Code Ann., Envir. § 2-104(b). On December 6, 2018, after public comment and technical review, MDE’s final rule became effective under Maryland’s SIP reducing the Wheelabrator Baltimore Facility’s limit for nitrogen oxides from 205 ppmvd to 150 ppmvd starting on May 1, 2019, adopting the limit requested by the City, and further reducing the limit to 145 ppmvd by May 1, 2020. COMAR 26.11.08.10. The Baltimore Clean Air Act upends these carefully promulgated requirements, and inexplicably vitiates the very limit the City requested MDE to adopt.

52. MDE’s newly adopted municipal waste combustor rule also requires Wheelabrator Baltimore, no later than January 1, 2020, to submit to MDE a feasibility analysis by an independent third party for the additional control of nitrogen oxides emissions, and to propose with it new nitrogen oxides limits based on the results of the feasibility analysis. COMAR 26.11.08.10.E. By enacting the Baltimore Clean Air Act before the feasibility study has even been conducted, the

City's actions directly conflict with and override MDE's specific plan for further addressing emissions from the Wheelabrator Baltimore Facility.

53. On September 17, 2018, the City Council passed another resolution requesting MDE action regarding air emissions from the Wheelabrator Baltimore Facility. This resolution (Resolution 18-0101R) was adopted one month after MDE published its proposed rule (which reduces the Wheelabrator Baltimore Facility's nitrogen oxides emission limit to the exact standard requested by the City in its 2017 resolution), and only one month before Councilman Edward Reisinger first introduced the Baltimore Clean Air Act. Resolution 18-0101R, again, explicitly recognizing that "MDE has the authority to set NO_x emission limits," requested that MDE "require a rigorous analysis" of Wheelabrator Baltimore's feasibility study due January 2020, and "fully evaluate the technical feasibility" of installing certain control technology at Wheelabrator Baltimore "regardless of cost or whether the technology has been used in other retrofits." As discussed above, MDE's final rule became effective on December 6, 2018, adopting the City's requested nitrogen oxides emissions standard, and requiring Wheelabrator to conduct the feasibility study and propose its own new nitrogen oxides limits based on the analysis. Both of the City's resolutions (17-0034R and 18-0101R) requested that MDE take action to change state air emissions regulations, the only pathway for the City to take such action under Md. Code Ann., Envir. § 2-104(b).

54. Pursuant to the federal and state regulations for MWCs, Wheelabrator Baltimore's current Title V permit establishes emission limits for pollutants and monitoring requirements at its Facility as set forth below in Table 1, which compares the current federal and state limits and monitoring provisions, other requirements for existing sources, and Wheelabrator Baltimore's Title V permit limits, with the Baltimore Clean Air Act:

TABLE 1				
Pollutant	Federal Emission Guidelines for Existing MWCs	Maryland Emission Limits for Existing MWCs	Wheelabrator Baltimore's Title V Permit Emission Limits for MWCs	Baltimore Clean Air Act Emission Limits
Year Approved	1995 (Updated 2006)	1997 (Updated 2016)	2001 (Reissued 2014)	2019
Nitrogen Oxides (NO_x)	205 ppmvd	150 ppmvd (May 2019) and 145 ppmvd (May 2020)	205 ppmvd	45 ppmvd – 24 hour block average; 40 ppmvd - 12 month rolling average
Sulfur Dioxides (SO₂)	29 ppmvd or 75% reduction of SO ₂ emissions	29 ppmvd or 75% reduction of SO ₂ emissions	29 ppmvd or 75% reduction of SO ₂ emissions	18 ppmvd
Mercury (Hg)	50 µg/dscm or 85% reduction of Hg emissions	50 µg/dscm or 85% reduction of Hg emissions	50 µg/dscm or 85% reduction of Hg emissions	15 µg/dscm
Dioxins/ Furans (D/F)	35 ng/dscm	35 ng/dscm	35 ng/dscm	2.6 ng/dscm (TEQ basis) ⁵
CEMS Requirement	NO _x , SO ₂ , CO, opacity	NO _x , SO ₂ , CO, opacity	NO _x , SO ₂ , CO (CEMS) Opacity (COMS) CO ₂ reporting under EPA greenhouse gas program	NO _x , SO ₂ , CO, D/F, PM, CO ₂ , Hydrochloric Acid (HCl), Hydrofluoric Acid (HF), Volatile Organic Compounds (VOCs), Polycyclic Aromatic Hydrocarbons (PAHs), and metals
CEMS Availability	90% hours per quarter, 95% hours per year	90% hours per quarter, 95% hours per year	90% hours per quarter, 95% hours per year	100%

⁵ The Act's unit of measurement for dioxins/furans (TEQ_{DF-WHO98}) is inapplicable to MWCs. Nowhere in the federal or state regulations setting EG for MWCs, or in Wheelabrator Baltimore's Title V Permit, is the TEQ unit included to measure dioxins/furans.

Air Monitoring Contractor Requirement	No	No	No	Yes
Strict Criminal Liability	No	No	No	Yes

As is evident from the chart and as discussed below, the Act imposes much more stringent requirements than any federal or state regulatory limits or the Title V permit for Wheelabrator Baltimore, creating a pervasive conflict with the federal and state system. Moreover, the City has not provided any scientific, technical, or factual basis that these limits and additional CEMS requirements are either achievable or necessary, nor why the City seeks to require CEMS for those pollutants that have no applicable limits in either federal or state law (including polycyclic aromatic hydrocarbons, volatile organic compounds, hydrofluoric acid, and all but two metals).

G. The Curtis Bay Facility Is Governed by Strict Federal and State Air Quality Regulations and Is Subject to a Comprehensive Title V Permit.

55. As explained above, Section 129 of the CAA directed EPA to promulgate EG for existing HMIWI facilities. In 1994, EPA published its first regulatory impact analysis in connection with this directive, which was also partially in response to an influx of medical waste that was supposedly destined for landfills washing up on east coast shorelines. *Medical Waste Incinerators – Background Information for Proposed Standards and Guidelines: Regulatory Impact Analysis*, p. 2-1, EPA-453/R-94-063a, July 1994. In its regulatory impact analysis, EPA highlighted several trends that factored into its evaluation of nationwide air emission standards for medical waste incinerators including: i) that the quantity of medical waste was increasing; ii) the need to provide optimal control of air emissions from medical waste incinerators was increasing; iii) that state and local restrictions of medical waste incinerators had increased; and iv) that state and local regulation of medical waste had become uneven leading to an uncertain regulatory

climate. *Id.* at 6-1. The patchwork of state and local regulation made it difficult to manage medical waste on a regional or nationwide basis as some regions lacked disposal capacity while others had excess capacity, creating, in EPA's words, the need for a "leveling of the playing field". *Id.* at 6-4. EPA reasoned that "temporary shortfalls of [HMIWI] capacity can be averted if the adoption of new regulations is coordinated with careful planning and expedient permitting." *Id.* EPA also concluded that incineration is the only way to safely dispose of certain types of infectious medical waste, such as pathological (i.e. tissue and fluids) or infectious waste. *Id.* at 6-5.

56. EPA first proposed EG in 1997 that required existing HMIWI facilities to demonstrate compliance by September 15, 2002. These EG were promulgated to reduce emissions of cadmium, carbon monoxide, dioxins and furans, hydrogen chloride, lead, mercury, nitrogen oxides, opacity, particulate matter, and sulfur dioxides. The EG reflected the maximum degree of reduction in air emissions at that time considering the environmental impacts, cost of achieving the emissions reduction, non-air quality health impacts, and energy requirements. 42 U.S.C. § 7429(a)(2). The result of this analysis is considered the MACT. *Id.* Under federal regulations, the EG for existing HMIWI facilities must be as stringent as the best performing 12% of existing HMIWI facilities in the nation. *Standards for Performance of New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators: Proposed Rule* 73 Fed. Reg. 72962 (December 1, 2008). The MACT first proposed by EPA in 1997 was designed to reduce dioxin and furan emissions by up to 97%, mercury emissions by up to 95%, particulate matter by up to 92%, lead emissions by up to 87%, cadmium emissions by up to 84%, carbon monoxide emissions by up to 82%, hydrogen chloride emissions by up to 98%, and sulfur dioxides and nitrogen oxides emissions by up to 30%. *Id.*

57. In 2008, EPA proposed new and revised EG for existing HMIWI facilities to implement a more stringent MACT standard. *Id.* The revised EG incorporated a new MACT standard derived from the performance of the most efficient HMIWI facilities based on emissions monitoring data submitted by regulated sources following implementation of the 1997 standard, as well as the existence of new technologies and process improvements at existing HMIWI facilities. *Id.* The revised 2008 EG were formally adopted in the final federal rules on May 13, 2013. *Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed On or Before December 1, 2008, and Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators: Final Rule*, 78 Fed. Reg. 28052 (May 13, 2013); 40 C.F.R. § 60, subpart Ce. In its rulemaking process, EPA noted that the implementation of the 1997 federal rules had accomplished its public policy goal of reducing emissions, reducing the amount of medical waste that was incinerated, and re-directing that medical waste that required incineration to a smaller number of highly-regulated HMIWIs, commenting that of the approximately 2,400 HMIWI units in operation in September 1997 (of which 3% were commercially owned), only 57 HMIWI units were in operation by 2008 (of which 23% were commercially owned- such as the Curtis Bay Facility). *Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators: Proposed Rule*, 73 Fed. Reg. 72962, 72967 (Dec. 1, 2008).

58. The Maryland SIP establishes EG for HMIWI facilities operating within the state that are identical to the 2013 federal rules. COMAR 26.11.08.08-2, *et seq.* The Maryland SIP required compliance no later than June 15, 2012, or no later than October 6, 2014 if a HMIWI facility was required to modify existing equipment or install new equipment to meet the EG. COMAR 26.11.08.08-2(E)(1). The current Maryland SIP for HMIWI EG was approved by EPA

and published in the Federal Register on April 28, 2017. *Approval and Promulgation of Air Quality Plans; State of Maryland; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incineration Units*, 82 Fed. Reg. 19613 (Apr. 28, 2017).

59. The Maryland SIP approved by EPA in 2017 involved a thorough public rulemaking process that sought input from all stakeholders including the regulated community, residents, environmental groups, and state and local governments, including the City. *See* Exhibit C, MDE Letter to EPA Submitting Maryland's SIP for HMIWI EG (Jan. 10, 2013). The process, which began in 2011, included a September 12, 2012 public meeting in Baltimore City providing stakeholders and interested parties the opportunity to provide comment. *Id.* MDE sent notice of the meeting to the City on August 8, 2012. *Id.* No representative from the City of Baltimore or any member of the public or any group attended the meeting. *Id.* The City did not otherwise provide any comments to the proposed SIP. *Id.* Lastly, the City has not requested that MDE adopt stricter EG for regulated HMIWI facilities operating within Baltimore as it is permitted to do under Section 2-104(b) of the Maryland Code's Environment Article.

60. The Curtis Bay Facility is a HMIWI facility that began commercial operation in 1991, making it an "existing" HMIWI facility subject to the federal EG pursuant to 40 C.F.R. § 60, subpart Ce. Curtis Bay was issued its first five-year Title V permit by MDE pursuant to EPA's EG in 2003. Its most recent Title V permit has been issued and goes into effect May 1, 2019. *See* Exhibit D. The Facility's Title V permit sets emissions limits for particulate matter (25 mg/m³), opacity (10%), carbon monoxide (11ppm), dioxins and furans (0.054 ng/dscm),⁶ hydrogen chloride (6.6 ppmv), sulfur dioxides (9.0 ppmv), nitrogen oxides (140 ppmv), lead (0.036 mg/dscm),

⁶ Dioxin and furan emissions are quantified by nanograms (1/1,000,000 gram) per cubic meter on a toxic equivalency factor (TEQ) basis for HMIWI facilities.

cadmium (0.0092 mg/dscm), and mercury (0.018 mg/dscm). The Title V permit also includes continuous emissions monitoring of certain pollutants. And, consistent with federal and state regulations, the permit requires that valid emissions data must be obtained for a minimum of 75 percent of operational hours per day and for 90 percent of the operating days per calendar quarter that the facility is combusting medical waste. *See* 40 C.F.R. § 60.37e(d); 40 C.F.R. § 60.57c(e); COMAR 26.11.08.08-2B(5). These are the emissions limits that EPA and MDE have independently determined, after rigorous scrutiny, are the best achievable and protective of human health and the environment.

61. In January 2018, Curtis Bay applied to MDE for a regular, five-year renewal of its Title V permit. MDE subsequently published notice of its intent to reissue the Curtis Bay Facility's Title V permit consistent with the requirements of the federal Subpart Ce and Maryland SIP requirements, and on materially the same terms as its then-existing Title V permit. MDE provided the required thirty-day opportunity for the public and all interested parties to provide comment and to even request a public hearing on the draft permit. When that public notice period ended, not one single person or entity had provided any comment whatsoever to MDE or requested a hearing on the renewal of the Curtis Bay Title V permit.

62. The renewed Curtis Bay Title V permit was released by MDE on April 12, 2019, and goes into effect May 1, 2019. The City had the opportunity to request that MDE impose stricter emissions limits on the Curtis Bay Facility during the permit's public comment period and to request a public hearing. The City made no such effort to shape the emission limits under the new Title V permit, an issue it now claims is a priority that requires action by and through the Act, despite the fact the Facility's new Title V permit would go into effect over a year before the Act's effective date of September 7, 2020. This failure by the Mayor and the City to use these well-

established opportunities to effect a present reduction in emissions from the Curtis Bay Facility demonstrates that the City's intent and goal with the Act was not to reduce emissions from the Curtis Bay Facility to levels less than currently permitted, but instead an attempt to utilize the legislative process to force the Facility to close.

63. Table 2 reflects the current federal and state limits and CEMS requirements for existing HMIWI sources, and Curtis Bay's Title V permit limits, compared to the newly codified emission limits in the Baltimore Clean Air Act:

TABLE 2				
Pollutant	Federal Emission Guidelines for Existing HMIWI	Maryland Emission Limits for Existing HMIWI	Curtis Bay's Title V Permit Emission Limits for HMIWI	Baltimore Clean Air Act Emission Limits
Year Approved	1997 (Updated 2013)	2000 (Updated 2012; Re-approved 2017)	2003 (Reissued 2019)	2019
Nitrogen Oxides (NO_x)	140 ppmvd	140 ppmvd	140 ppmv – 24 hour block average	45 ppmvd – 24 hour block average; 40 ppmvd - 12 month rolling average
Sulfur Dioxides (SO₂)	9 ppmvd	9 ppmvd	9 ppmvd	18 ppmvd
Mercury (Hg)	18 µg/dscm	18 µg/dscm	18µg/dscm	15 µg/dscm
Dioxins/ Furans (D/F)	0.054 ng/dscm (TEQ basis)	0.054 ng/dscm (TEQ basis)	0.054 ng/dscm (TEQ basis)	2.6 ng/dscm (TEQ basis)
CEMS Requirement	NO _x , SO ₂ , CO	NO _x , SO ₂ , CO	NO _x , HCl, CO (CEMS)	NO _x , SO ₂ , CO, D/F, PM, CO ₂ , HCl,

			Opacity (COMS)	Hydrofluoric Acid (HF), Volatile Organic Compounds (VOCs), Polycyclic Aromatic Hydrocarbons (PAHs), and metals
CEMS Availability	75% of the operating hours per day for 90% of the operating days per quarter	75% of the operating hours per day for 90% of the operating days per quarter	75% of the operating hours per day for 90% of the operating days per quarter	100%
Air Monitoring Contractor Requirement	No	No	No	Yes
Strict Criminal Liability	No	No	No	Yes

64. As is shown in the chart above, Curtis Bay's Title V permit establishes emissions limits consistent with the strict federal and state regulations that have been determined by both federal and state government environmental agencies to sufficiently protect human health and the environment. Nonetheless, the Act requires further emissions limit reductions for most pollutants, together with other requirements that, as set forth in the following paragraph, are financially burdensome, impracticable, unnecessary, and, with respect to certain added CEMS requirements, technically infeasible. This is because the City's goal was not to conduct a rigorous scientific inquiry to derive emissions limits that would protect human health and the environment; rather, the City's goal was to impose impractical requirements to force the closure of the Facility, which the City is prohibited from directly ordering under federal and Maryland laws.

H. The Baltimore Clean Air Act Clashes With and Is an Obstacle to the Federal/State Air Pollution Control Structure.

65. The Baltimore Clean Air Act sets emission limits for several pollutants that countermand those established under Sections 111(d) and 129 of the CAA and the Maryland air laws (federal and state standards shown in Tables 1 and 2), including:

a. For nitrogen oxides, the Act contravenes the federal and state limits by setting forth a nitrogen oxides emission limit of 45 ppmvd on a 24-hour block average and 40 ppmvd on a 12-month rolling average. Wheelabrator Baltimore and Curtis Bay cannot meet these limits with their current nitrogen oxides control technology. Further, the City gave no consideration to whether there exists any technology capable of meeting the nitrogen oxides limits that can be retrofitted at the Wheelabrator Baltimore Facility.

b. The Act also slashes the federal and state limit for sulfur dioxides to 18 ppmvd and does not include the alternative compliance method for waste-to-energy facilities provided under federal and Maryland law of 75% reduction of sulfur dioxides. Wheelabrator Baltimore is designed and has been authorized by MDE and EPA to rely on the federal and state alternative provision of 75% reduction of sulfur dioxide emissions measurement to stay in compliance with its Title V permit. Under current operating conditions, and employing the current technology at the Facility, Wheelabrator Baltimore cannot meet the Baltimore Clean Air Act's sulfur dioxide requirements.

c. Likewise, the Act drastically reduces the mercury limit to 15 µg/dscm; does not include the percent reduction compliance alternative set forth in EPA/MDE's regulations and the Facilities' permits; and requires the use of CEMS for demonstrating compliance. There is, however, no CEMS technology available that can reliably and accurately measure the low emission levels of gaseous mercury compounds.

d. EPA and MDE regulations and the Facilities' Title V permits require technically available CEMS for nitrogen oxides, sulfur dioxides, carbon monoxide, and opacity for which EPA has developed performance specifications and quality assurance requirements to confirm the accuracy and repeatability of the measurements. The Baltimore Clean Air Act abruptly enlarges the number of air pollutants for which the Facilities will be forced to employ CEMS, including dioxins/furans, particulate matter, carbon dioxide, sulfur dioxide, hydrochloric acid, hydrofluoric acid, volatile organic compounds, polycyclic aromatic hydrocarbons, and metals. However, there are currently no EPA-approved CEMS technologies available to combustion facilities that could be used to monitor for several of the pollutants, including polycyclic aromatic hydrocarbons and the Act's list of trace metals. Moreover, the Act's CEMS requirement for polycyclic aromatic hydrocarbons, volatile organic compounds, hydrofluoric acid and several of the Act's listed metals is unnecessary given the absence of emission limits for those pollutants in the Act.

e. Federal and state regulations, as well as Wheelabrator Baltimore and Curtis Bay's Title V operating permits, account for necessary downtime to perform repairs, calibration checks, and additional adjustments on CEMS equipment. The rules and permits specify that valid emissions data should be obtained for a minimum of 90 percent of operational hours per calendar quarter, and 95 percent of operational hours per calendar year that the Wheelabrator Baltimore Facility is combusting municipal solid waste. For the Curtis Bay Facility, valid emissions data must be obtained for a minimum of 75 percent of operational hours per day and for 90 percent of the operating days per calendar quarter that its Facility is combusting medical waste. In stark contrast, the Act imposes a physically impossible standard for CEMS; namely, that CEMS be

operational at all times that the facility is functioning, without accounting for any requisite downtime for maintenance and upkeep.

66. Indeed, Baltimore's DPW acknowledges that Wheelabrator Baltimore must shut down for an indeterminate period to perform the retrofits necessary to meet the Act's requirements. *See* Exhibit E, Baltimore DPW Memorandum to Baltimore City Council, dated January 28, 2019. But DPW has not analyzed whether such compliance is even possible, and Wheelabrator Baltimore is at this point still analyzing whether, even after the expenditure of tens of millions of dollars, it can meet the terms of the Act. In addition, there are significant lead times (months to years) associated with permitting and contracting for, designing, delivering, installing, testing, and operating such systems, if such systems could even be retrofitted at the Facility.

67. DPW further acknowledges that Wheelabrator Baltimore may have to shut down the Facility completely as a result of the legislation. *See id.* This would mean all of Baltimore City's waste currently handled by the waste-to-energy Facility would have to be transported to the QRL and all non-City waste would need to find alternative disposal locations well outside the City and even the Baltimore metropolitan region. *See id.* According to DPW's most recent "Fiscal Analysis of Possible Impacts" of the Act, the QRL is expected to reach full capacity by 2026. *See* Exhibit F, Baltimore DPW Fiscal Analysis of Possible Impacts of City Council Bill 18-0306, dated February 2019. If Wheelabrator Baltimore shuts down, the QRL would reach capacity much earlier, causing significant solid waste disposal problems for the City and its residents. DPW estimates that plans for expansion at QRL would cost Baltimore taxpayers \$99.7 million. However, recognizing that post-legislation, full capacity will be reached before an expansion is completed, DPW noted that it will have to evaluate alternate locations for another landfill in the City in the

long-term. Further, DPW cautioned that before a permanent solution for disposal could be found, interim measures would require a significant investment of City funds. *See id.*

68. In sum, the Wheelabrator Baltimore Facility and Curtis Bay Facility meet the environmentally protective CAA Section 129 and 111 federal and state air emission standards and the BACT/LAER technology standards required by EPA and Maryland statutes and regulations and their respective Title V permits, as well as MDE air toxics regulations, all of which were established in a science-based and transparent manner, and subject to public comment processes. The Facilities cannot meet all of the standards in the Baltimore Clean Air Act, which did not go through any fact gathering, considered evaluation, or rulemaking procedures, and which contradict the well-reasoned federal and state laws in favor of non-science-based, arbitrary, and capricious mandates.

I. The Baltimore Clean Air Act Conflicts With and is Preempted by Maryland's Solid Waste Laws.

69. Title 9 of Maryland's Environmental Article and MDE's implementing regulations create a comprehensive scheme that governs solid waste management as well as the permitting, construction, and operation of any refuse disposal system, including waste-to-energy facilities and HMIWI facilities. Md. Code Ann., Envir. §§ 9-204 – 9-229, 9-501 – 9-521; Nat. Res. §§ 3-901 *et seq.*; COMAR 26.03.03; COMAR 26.04.07.01 – 27 (collectively, the "Solid Waste Laws"). The Solid Waste Laws specifically mandate the creation of, requirements for, and implementation of SWMPs for Maryland counties and cities. Also, any operator of a refuse disposal system must obtain a permit from MDE before construction and then maintain its permit for the duration of its operations. Md. Code Ann., Envir. § 9-204.

70. MDE's regulations set forth numerous requirements specific to waste combustors and landfills, including standards for access to the facility, environmental protection, supervision

and training of personnel, sanitation, fire control, and other requirements. COMAR 26.04.07. MDE's regulations prohibit the disposal of medical waste at any solid waste facility unless specifically authorized by MDE. COMAR 26.04.07.03. These statutes and regulations cover in detail all aspects of the management of solid and medical waste by Maryland counties and Baltimore City including the Wheelabrator Baltimore Facility and the Curtis Bay Facility. The comprehensiveness with which the Maryland General Assembly has legislated in the solid waste field, including through the City's and Baltimore County's SWMP obligations and Wheelabrator Baltimore's and Curtis Bay's state-issued refuse disposal permits, preempt the Baltimore Clean Air Act.

71. MDE requires that municipalities, including Baltimore City and County, create and submit for approval a SWMP. COMAR 26.03.03. MDE approved Baltimore's current SWMP on March 24, 2016, and it covers the ten-year period 2013–2023. Baltimore County's SWMP was approved on February 20, 2019 for the period 2019–2028. The City's SWMP expressly states that solid waste is “governed by federal and state laws that regulate local practices to protect public health and welfare.” SWMP ¶ 1.3.

72. Baltimore City's SWMP states that “[e]ffective collection and disposal of solid waste is critical to public health.” SWMP ¶ 1.1. In order to achieve its goal to safeguard public health, the SWMP relies heavily upon the Wheelabrator Baltimore Facility, where the City disposes the majority of its solid waste; the remainder of the City's non-recyclable waste ultimately ends up at the QRL. SWMP ¶¶ 3.4, 4.2. The City underscored to MDE the importance of the two facilities, stating in the plan that “[a]ssessing Baltimore's need to alter, extend, modify, or add to the existing solid waste disposal system with regards to waste treatment and disposal depends on

the capacity of these facilities.” SWMP ¶ 4.2. The Wheelabrator Baltimore Facility processes 2,100 tons of waste daily on average.

73. Baltimore represented to MDE that the Wheelabrator Baltimore Facility “has obtained and operates in compliance with necessary City, State, and federal permits,” that “[e]missions from the electrostatic precipitators equipped smokestacks are monitored by the MDE,” and that the “anticipated service life of the plant is over 20 years.” SWMP ¶ 3.4.1. The City touted its disposal agreement with Wheelabrator Baltimore, noting that it “assure[s] the City’s capabilities of safely and properly disposing of wastes far into the future.” SWMP ¶ 4.3. The City represented that the Wheelabrator Baltimore Facility “reduces the volume of landfill space that the debris occupies by up to 90 percent,” and that “[t]he dense compaction of [Wheelabrator] ash has extended [the landfill’s] life expectancy.” SWMP ¶ 4.2.2.1. The City concludes that “[u]tilizing the Wheelabrator plant is in accord with the City’s sustainability goals because the Facility generates renewable energy, providing a new carbon reduction and recovery of metals from the waste stream.” SWMP ¶ 5.2.3. Relying on all of these representations, MDE approved the City’s SWMP.

74. In addition to operating subject to its Title V air permit, Wheelabrator Baltimore also operates under an MDE-issued Refuse Disposal Permit. *See* Exhibit G, Wheelabrator Baltimore’s Refuse Disposal Permit (No. 2016-WTE-0030). Wheelabrator’s RDP was issued on March 3, 2017 and is valid for 5 years, expiring March 2, 2022. The RDP requires the Facility to be “operated and maintained in such a manner as to prevent air, land, or water pollution, public health hazards or nuisances.” RDP, Part V.D. The RDP vests MDE with the right to approve of all pollution control devices installed at the Facility: “All pollution control and ground and surface water monitoring systems (including stormwater management and sediment control systems) shall

be installed in accordance with the manufacturer's recommendations and plans and specifications approved by the Department [MDE]." RDP, Part V.O.1. Importantly, it is not Baltimore, but MDE, that "reserves the right to restrict the volume of material accepted at [the] facility upon a determination that . . . conditions which are prejudicial to quality of the environment or the public health, safety, or comfort have occurred or are likely to occur." RDP, Part II.C.2. By causing the Wheelabrator Baltimore Facility to shut down, the City has effectively restricted the volume of material that can be accepted at the Facility, which is an impermissible invasion of MDE's authority.

75. Similar to Wheelabrator Baltimore, the Curtis Bay Facility operates under an MDE-issued medical waste incineration RDP. *See* Exhibit H, Curtis Bay's Refuse Disposal Permit (No. 2017-WMI-0036). The RDP was issued on June 12, 2017 and expires on June 12, 2022. The RDP permits the Curtis Bay Facility to accept 62,050 tons of medical waste per year. Curtis Bay RDP, Part II.E.1. The RDP authorizes Curtis Bay to accept for incineration medical wastes as well as over-the-counter and prescription pharmaceuticals preventing those pharmaceuticals from entering municipal waste streams through flushing or landfilling. Curtis Bay RDP, Part III.A.2. The RDP vests MDE with the right to approve of all pollution control devices installed at the Facility: "All pollution control and ground and surface water monitoring systems (including stormwater management and sediment control systems) shall be installed in accordance with the manufacturer's recommendations and plans and specifications approved by the Department [MDE]." Curtis Bay RDP, Part III.O.1. The RDP obligates Curtis Bay to report any damage to the Facility's pollution monitoring or control devices to MDE and MDE may specify the timeframe for completing necessary repairs. Curtis Bay RDP, Part III.O.2. Further, "[t]he Department reserves the right to restrict the volume of material accepted at this facility upon a determination

that nuisance conditions, harborage of disease vectors, fugitive dust, blowing litter, or other conditions which are prejudicial to the quality of the environment or the public health, safety, or comfort have occurred or are likely to occur as a result of this practice.” Curtis Bay RDP, Part II.E.2.

76. The Act seeks to interfere with the pollution control plans and specifications approved by MDE by enforcing stricter emission controls, emissions monitoring, and reporting requirements that will require the installation of new pollution control equipment. The Act supersedes MDE’s approval of the pollution control devices in the Curtis Bay Facility’s RDP. Additionally, the Act will require Curtis Bay to either shut down or restrict the volume of medical waste processed while it installs new pollution control devices to comply with the Act. In this manner, the City attempts to assume MDE’s authority to restrict the volume of material to be accepted at the Facility.

77. The City has recognized the limits on its ability to use City law to qualify or conflict with its SWMP. In 2010, the City passed Zoning Bill 09-0400 to repeal certain geographic restrictions on the acceptance of waste by the Curtis Bay Facility. In its memo to the City Council providing its legal analysis of the proposed legislation, the City Solicitor observed that “City laws imposing geographic limits on waste acceptance qualify the provisions of the existing SWMP, in effect amending the plan legislatively.” Memorandum Regarding City Council Bill 09-0400, City of Baltimore Department of Law, p. 4 (Dec. 9, 2009). The Solicitor concluded that “[t]his action is preempted by the State’s occupation of the field of solid waste management and prohibited by State law which requires revisions to the SWMP to be approved by MDE.” *Id.* The Baltimore Clean Air Act similarly imposes limits on waste acceptance by causing the Facilities to temporarily or permanently shut down, reducing the amount of waste the Facilities can process, in effect,

amending the SWMP by City fiat. This action is preempted by the State's occupation of the majority of the field of solid waste management (except zoning and other purely local issues) and prohibited by state law which required revisions to the SWMP to be approved by MDE

78. MDE approved the City's and Baltimore County's SWMPs, relying on their representations that Wheelabrator Baltimore would be utilized as the City's primary method to safely and properly dispose of its waste, and be available for disposal of Baltimore County residential and commercial waste. The Baltimore Clean Air Act effectively rewrites the SWMPs by erasing Wheelabrator Baltimore, materially changing the conditions upon which MDE's approval relied. The Baltimore Clean Air Act imposes its own conflicting limits on waste acceptance with the intent of shutting the Facility down by amending the SWMPs legislatively.

FIRST CAUSE OF ACTION

Federal Clean Air Act Preemption

79. Plaintiffs re-allege and incorporate each and every allegation set forth in Paragraphs 1-78 above.

80. The Supremacy Clause of the Constitution, Art. VI, cl. 2, invalidates local laws which "interfere with or are contrary to the laws of Congress, made in pursuance of the Constitution."

81. The CAA, first passed by Congress in 1970, comprehensively regulates air quality in the United States, including emissions from the operation of stationary sources such as waste-to-energy and HMIWI facilities. The Wheelabrator Baltimore Facility and Curtis Bay Facility are regulated under the CAA and have been since they commenced operations in 1985 and 1991, respectively.

82. The 1990 amendments to the CAA imposed new and more stringent regulations on waste combustion units, under Sections 111(d) and 129. In 1995, EPA promulgated regulations under 40 C.F.R. § 60, subpart Cb to implement mandates for municipal waste combustors set forth in the 1990 amendments.

83. In 1997, EPA promulgated regulations under 40 C.F.R. § 60, subpart Ce to implement mandates for HMIWI facilities set forth in the 1990 amendments.

84. Nowhere does the CAA grant local governments the independent power to regulate air pollution or enact conflicting standards.

85. EPA further tightened regulations for existing municipal solid waste combustors in May 2006 and for HMIWI facilities in 2013. These revisions included more stringent standards for metals and compounds that the Baltimore Clean Air Act attempts to regulate.

86. At all times, the Wheelabrator Baltimore Facility and Curtis Bay Facility have been regulated by and have operated pursuant to CAA Title V permits under the ultimate authority of EPA.

87. The requirements of the Baltimore Clean Air Act conflict with the specific emissions limits and operating regulations set by EPA.

88. The Baltimore Clean Air Act prohibits activity which is expressly authorized by federal law, *i.e.*, operation of the Wheelabrator Baltimore Facility and Curtis Bay Facility pursuant to unambiguous requirements set by federal regulations and the Facilities' Title V permits.

89. The Baltimore Clean Air Act stands as an obstacle to the accomplishment of the full purposes and objectives of federal law and interferes and conflicts with the methods by which the federal Clean Air Act regulations and Title V permit were designed to reach their goals.

90. An actual controversy exists between Plaintiffs and Defendant regarding the legality and enforceability of the Act.

91. As a direct and proximate result of the actions of the City of Baltimore, Plaintiffs will suffer direct, substantial, and irreparable injury for which there is no adequate remedy at law.

92. Plaintiffs are entitled to a declaratory judgment that the CAA preempts the Baltimore Clean Air Act and to an injunction against Defendant prohibiting the City of Baltimore from enforcing the Act.

SECOND CAUSE OF ACTION

State Conflict Preemption – Maryland Air Laws

93. Plaintiffs re-allege and incorporate each and every allegation set forth in Paragraphs 1-92 above.

94. Maryland Constitution Art. XI-A, § 3 expressly provides that there shall be no conflict between the ordinances of the City of Baltimore and the public general laws of the State of Maryland: “All such local laws enacted by the Mayor of Baltimore and City Council of the City of Baltimore, shall be subject to the same rules of interpretation as those now applicable to the Public Local Laws of this State, except that in case of any conflict between said local law and any Public General Law now or hereafter enacted the Public General Law shall control.”

95. The Baltimore City Charter similarly provides that the City is empowered to “pass any ordinance, *not inconsistent with the provisions of the Charter or the laws of the State.*” Baltimore City Charter Art. II, § 47 (emphasis added).

96. The City of Baltimore’s authority to pass an ordinance regulating air pollution control is circumscribed by the constitutional, charter, statutory, and common law limits on the

City's police power. Actions taken by Defendant outside of its legal authority or that are inconsistent with State laws are ultra vires and preempted.

97. The Baltimore Clean Air Act conflicts with the Maryland air laws and their implementing regulations by prohibiting air emissions and monitoring methods that Maryland law permits and by further conflicting with the purpose of State law to promote science-based, uniform Maryland air pollution laws that are consistent with those adopted by EPA.

98. The Baltimore Clean Air Act is inconsistent with and overrides the Maryland air laws by imposing a regulatory regime that countermands the Wheelabrator Baltimore and Curtis Bay Title V permits and abrogates established emissions limits and operational controls.

99. The Act conflicts with the Title V permits issued to Wheelabrator Baltimore and Curtis Bay under the Clean Air Act and the Maryland air laws because the Baltimore Clean Air Act nullifies the specific emissions levels and CEMS requirements set forth in the Title V permits.

100. An actual controversy exists between Plaintiffs and Defendant regarding the legality and enforceability of the Act.

101. As a direct and proximate result of the actions of the City of Baltimore, Plaintiffs will suffer direct, substantial, and irreparable injury for which there is no adequate remedy at law.

102. Accordingly, Plaintiffs seek a declaration that the Act conflicts with the Maryland air laws and is preempted, and seek an injunction barring its enforcement.

THIRD CAUSE OF ACTION

State Implied Preemption - Maryland Air Laws

103. Plaintiffs re-allege and incorporate each and every allegation set forth in Paragraphs 1-102 above.

104. The General Assembly established that “the Department [MDE] has jurisdiction over emissions and ambient air quality in th[e] State.” MD Code Ann., Envir. § 2-103(b). The law directed MDE to adopt regulations “for the control of air pollution in this State, including testing, monitoring, record keeping, and reporting requirements,” taking into account all pertinent environmental and public health factors. Md. Code Ann., Envir. § 2-301.

105. The Baltimore Clean Air Act is preempted by Maryland law under the doctrine of implied preemption. The Maryland air laws and implementing regulations occupy the field of regulation of air pollution, including emissions from Wheelabrator Baltimore’s Facility and Curtis Bay’s Facility. Maryland law has forcefully occupied this area through its SIP, adopting comprehensive air pollution regulations to regulate every aspect of air quality, leaving no room for local regulation in this complex area by the Act, which is impliedly preempted.

106. The Baltimore Clean Air Act is impliedly preempted by the Title V permits issued to Wheelabrator Baltimore and Curtis Bay under the CAA and the Maryland air laws because the Title V permits comprehensively regulate the Facility, setting specific technical requirements for emissions levels and CEMS set forth in the Title V permits.

107. The Baltimore Clean Air Act is impliedly preempted because allowing the Act and similar local regulations would engender chaos and confusion and would interfere with the purposes and objectives of the Maryland air laws, including goals of uniformity and prevention of balkanization of the complex field of air pollution control.

108. An actual controversy exists between Plaintiffs and Defendant regarding the legality and enforceability of the Act.

109. As a direct and proximate result of the actions of the City of Baltimore, Plaintiffs will suffer direct, substantial, and irreparable injury for which there is no adequate remedy at law.

110. Accordingly, Plaintiffs seek a declaration that the Act is impliedly preempted by Maryland air law, and seek an injunction barring its enforcement.

FOURTH CAUSE OF ACTION

State Express Preemption – Maryland Air Laws

111. Plaintiffs re-allege and incorporate each and every allegation set forth in Paragraphs 1-110 above.

112. Express preemption occurs when the Maryland General Assembly prohibits local legislation in a field by specific language in a statute.

113. The General Assembly established that “the Department [MDE] has jurisdiction over emissions and ambient air quality in th[e] State.” MD Code Ann., Envir. § 2-103(b). The law directed MDE to adopt regulations “for the control of air pollution in this State, including testing, monitoring, record keeping, and reporting requirements,” taking into account all pertinent environmental and public health factors. Md. Code Ann., Envir. § 2-301.

114. Under Md. Code Ann., Envir. § 2-104, a state political subdivision’s only option for seeking emission standards more stringent than the federal and state law, like the Baltimore Clean Air Act does, is to request MDE to adopt them through subsection 2-104(b).

115. Subsection 2-104(b) directs that if a political subdivision desires the adoption of more stringent limits or standards it must ask MDE “to adopt rules and regulations that set more restrictive emission standards or ambient air quality standards in that subdivision.”

116. The City of Baltimore has followed this process set forth in Maryland law when it desired more stringent emissions limits by making a request to MDE, which the City has done as recently as 2017–18. Indeed, in late 2018, MDE issued a final rule under the SIP reducing the

Wheelabrator Baltimore Facility's limit for nitrogen oxides to the limit specifically requested by the City. COMAR 26.11.08.10.

117. Section 2-104 contains no express or implied delegation of authority over air pollution control to local subdivisions, but simply recognizes residual police power authority over air quality. *See* Md. Code Ann., Envir. § 2-104(a).

118. An actual controversy exists between Plaintiffs and Defendant regarding the legality and enforceability of the Act.

119. As a direct and proximate result of the actions of the City of Baltimore, Plaintiffs will suffer direct, substantial, and irreparable injury for which there is no adequate remedy at law.

120. Accordingly, Plaintiffs seek a declaration that the Act is expressly preempted by the Maryland air laws, and seek an injunction barring its enforcement.

FIFTH CAUSE OF ACTION

State Implied Preemption - Maryland Solid Waste Laws

121. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in Paragraphs 1-120 above.

122. The Baltimore Clean Air Act is preempted by the Maryland Solid Waste Laws under the doctrine of implied preemption. These laws and implementing regulations largely occupy the field of solid waste management, including specifically waste disposed of at the Wheelabrator Baltimore Facility and Curtis Bay Facility. Maryland law has occupied this area (except zoning and other purely local issues) through its comprehensive statutes and regulations, and the specific requirement that municipalities, including Baltimore, create and maintain a SWMP that must be approved by MDE and may not be altered or amended without additional MDE review and approval.

123. The Act is impliedly preempted by the RDP issued to Wheelabrator Baltimore and the RDP issued to Curtis Bay under the Maryland Solid Waste Laws because the permit comprehensively regulates the Facilities, setting specific requirements for the Facilities' operations, including the type and amount of waste that they can accept and pollution control measures. MDE's regulations thoroughly and pervasively cover the management of solid waste, which requires uniform, state-wide treatment.

124. The Act is impliedly preempted because allowing the Act and similar local regulations would engender chaos and confusion and would interfere with the purposes and objectives of the Maryland Solid Waste Laws, which occupy the field of solid waste disposal except for a narrow set of purely local issues such as zoning.

125. An actual controversy exists between Plaintiffs and Defendant regarding the legality and enforceability of the Act.

126. As a direct and proximate result of the actions of the City of Baltimore, Plaintiffs will suffer direct, substantial, and irreparable injury for which there is no adequate remedy at law.

127. Accordingly, Plaintiffs seek a declaration that the Act is impliedly preempted by Maryland solid waste law, and seek an injunction barring its enforcement.

SIXTH CAUSE OF ACTION

Ultra Vires

128. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in Paragraphs 1-127 above.

129. The passage of an ordinance by the Baltimore City Council is an exercise of the City's police power under the Maryland Constitution and the Baltimore City Charter. Md. Const. Art. XI-A, § 3; Baltimore City Charter Art. II, § 47.

130. By Maryland Constitution and City Charter, the City Council is limited to legislating local laws and may not legislate general laws. The Baltimore Clean Air Act is an impermissible general law that has far-reaching effects and damages outside of the City of Baltimore.

131. Maryland Constitution Art. XI-A, § 3 expressly provides that there shall be no conflict between the ordinances of the City and the public general laws of the State: “All such local laws enacted by the Mayor of Baltimore and City Council of the City of Baltimore, shall be subject to the same rules of interpretation as those now applicable to the Public Local Laws of this State, except that in case of any conflict between said local law and any Public General Law now or hereafter enacted the Public General Law shall control.”

132. The Baltimore City Charter provides the same, stating that the City is empowered to “pass any ordinance, *not inconsistent with the provisions of the Charter or the laws of the State . . .*” Baltimore City Charter Art. II, § 47 (emphasis added).

133. The City of Baltimore’s authority to pass an ordinance regulating air pollution control is circumscribed by the constitutional, charter, statutory, and common law limits on the City’s police power. Actions taken by Defendant outside of its legal authority or that are inconsistent with State laws are ultra vires and void.

134. The Maryland air laws expressly grant MDE authority to adopt regulations “for the control of air pollution in this State, including testing, monitoring, recordkeeping, and reporting requirements.” *See* Md. Code Ann., Envir. § 2-301. The State has empowered MDE alone to adopt rules and regulations that set emission standards, and pursuant to the statute, Defendant may only impose different requirements by request to and approval from MDE.

135. By imposing draconian and unsupported air pollution control restrictions on Wheelabrator Baltimore's waste-to-energy Facility and Curtis Bay's HMIWI Facility, the Baltimore Clean Air Act prohibits conduct that has been affirmatively authorized under State law and duly issued permits, contradicts and is an obstacle to MDE's authority to establish and set emission limits and monitoring requirements, and interferes with State goals for air pollution rules that are uniform and based on science-based standards and risk assessment.

136. An actual controversy exists between Plaintiffs and Defendant regarding the legality and enforceability of the Act.

137. As a direct and proximate result of the actions of the City of Baltimore, Plaintiffs will suffer direct, substantial, and irreparable injury for which there is no adequate remedy at law.

138. Accordingly, Plaintiffs seek a declaration that the Act is ultra vires, and an injunction against enforcement of the Act in all respects.

SEVENTH CAUSE OF ACTION

Maryland Constitution, Article XI-A, Impermissible General Law

139. Plaintiffs re-allege and incorporate by reference each and every allegation set forth in Paragraphs 1-138 above.

140. Maryland Constitution Art. XI-A, § 3 provides that “[f]rom and after the adoption of a charter by the City of Baltimore . . . the Mayor of Baltimore and City Council of the City of Baltimore . . . subject to the Constitution and Public General Laws of this State, shall have full power to enact *local laws* of . . . said City . . . upon all matters covered by the express powers granted as above provided . . .” (emphasis added).

141. Likewise, the Baltimore City Charter provides that the City is empowered to “pass any ordinance, not inconsistent with the provisions of the Charter or the laws of the State . . . as

well as any ordinance as it may deem proper in maintaining the peace, good government, health and welfare of *Baltimore City*.” Baltimore City Charter Art. II, § 47 (emphasis added).

142. Article XI-A of the Maryland Constitution authorizes the City of Baltimore to enact only “local laws,” and the Baltimore City Charter authorizes ordinances that maintain the health and welfare of “Baltimore City.” The Baltimore Clean Air Act is not a “local law” within the meaning of Art. XI-A, and the Mayor of Baltimore and the City Council of Baltimore did not have the requisite authority to enact it, because it substantially affects the interests of people and entities outside of Baltimore. Specifically, the Act (i) dictates the nature and quality of air emissions and air quality far beyond the City’s jurisdiction; (ii) imposes management controls on the combustion of solid waste from numerous sources outside of the City; and (iii) imposes environmental harms and costs by diverting solid waste to locations outside of the City. It is therefore facially unconstitutional under Article XI-A and impermissible under the City’s Charter.

143. A law is not a local law merely because its operation initially occurs in Baltimore if it affects the interests of people and businesses outside of the City. Here, the Mayor of Baltimore and the City Council of Baltimore have passed a general law – *i.e.*, a law which is of significant interest not just to any one city or county, but rather to more than one geographical subdivision – that is masquerading as a local law, an action wholly prohibited under the Maryland Constitution and the City’s Charter.

144. An actual controversy exists between Plaintiffs and Defendant regarding the legality and enforceability of the Act.

145. As a direct and proximate result of the actions of the City of Baltimore, Plaintiffs and other affected persons and entities in Maryland will suffer direct, substantial, and irreparable injury for which there is no adequate remedy at law.

146. Accordingly, Plaintiffs seek a declaration that the Act is unconstitutional under Article XI-A and impermissible per the terms of the Baltimore City Charter, and seek an injunction barring its enforcement.

EIGHTH CAUSE OF ACTION

Substantive Due Process – U.S. Constitution, 42 U.S.C. § 1983

147. Plaintiffs re-allege and incorporate each and every allegation set forth in Paragraphs 1-146 above.

148. The Fifth Amendment of the U.S. Constitution, made applicable to the states by the Fourteenth Amendment, provides that “[n]o person shall be . . . deprived of life, liberty, or property without due process of law”

149. The Civil Rights Act of 1871, 42 U.S.C. § 1983, provides a civil action for an injured party against every person who, under color of law, deprives a person of rights, privileges, and immunities secured by the Constitution and laws of the United States.

150. At all times, Defendant acted under color of State law.

151. The Baltimore Clean Air Act and its terms are manifestly arbitrary, capricious, unjust, and unreasonable, constitute an abuse of legislative discretion, and fall outside the limits of legitimate governmental action.

152. Defendant’s actions in legislating the Baltimore Clean Air Act were not an exercise of reasoned judgment on proper air pollution control guided by legal standards and scientific facts. The illegal conditions in the Act contradict the findings, conclusions, and standards set by EPA and MDE. Defendant failed to conduct any study or provide any reasoned analysis or justification to support any of the limits and mandates imposed by the Act.

153. As described above, the Baltimore Clean Air Act was promulgated without any legislative fact finding and with no relevant or supportable scientific and technical record. The unsupported Act stands in stark contrast to the vast scientific and technical work by EPA and MDE supporting their regulations and the Title V permits governing the Wheelabrator Baltimore Facility and the Curtis Bay Facility.

154. By forcing a reduction in waste processing at the Wheelabrator Baltimore Facility and the Curtis Bay Facility through its draconian requirements, the Act will result in increased truck traffic on the roads in the City and the Baltimore Metropolitan region to transport waste to landfills, which in turn will cause increased vehicle emissions. The additional diverted waste will also increase regional greenhouse gas emissions from the landfills. There is no evidence in the record for the Act that its enactment will improve public health.

155. The Act requires installation of monitoring technology that is not available for waste-to-energy facilities from any vendor, rendering compliance by the Wheelabrator Baltimore Facility impossible.

156. The Act imposes extraordinary and unprecedented constraints specifically targeted at the Wheelabrator Baltimore Facility and the Curtis Bay Facility to cause their closure, regardless of the consequences to Baltimore residents, businesses, and the City's solid waste management.

157. Wheelabrator Baltimore has a vested property interest in its Facility, which has operated since 1985, and in its Title V permit issued pursuant to federal and state law. The Act lacks a rational basis and deprives Plaintiff of those rights.

158. Curtis Bay has a vested property interest in its Facility, which has operated since 1991, and its Title V permit issued pursuant to federal and state law. The Act lacks a rational basis and deprives Plaintiff of those rights.

159. The actions of Defendant deprived Plaintiffs of their right to substantive due process of law in violation of the Fifth Amendment of the U.S. Constitution as applied to the states pursuant to the Fourteenth Amendment of the U.S. Constitution, in violation of 42 U.S.C. § 1983, and Plaintiffs are entitled to damages and attorneys' fees. Plaintiffs are damaged in an amount to be proven at trial.

160. Accordingly, Plaintiffs seek a declaration that the Act violates substantive due process rights guaranteed by the U.S. Constitution, and an injunction against the enforcement of the challenged conditions.

NINTH CAUSE OF ACTION

Equal Protection – U.S. Constitution, 42 U.S.C. § 1983

161. Plaintiffs re-allege and incorporate each and every allegation set forth in Paragraphs 1-160 above.

162. The Baltimore Clean Air Act treats Wheelabrator Baltimore and Curtis Bay differently from similarly situated persons that generate air emissions in the City of Baltimore.

163. The Act is not rationally related to a legitimate government purpose.

164. The Act singles out Wheelabrator Baltimore and Curtis Bay for disparate treatment and is designed and intended to force the closure of the Facilities.

165. The City of Baltimore's enactment of the Act violated each Plaintiff's right to equal protection of the laws as guaranteed by the United States Constitution, and the Plaintiffs are entitled to a declaratory judgment thereof and injunctive relief prohibiting Defendant from enforcing the Act.

166. At all times, Defendant acted under color of State law.

167. The City of Baltimore's enactment of the Act deprived the Plaintiffs of their rights to equal protection of the laws as guaranteed by the United States Constitution, in violation of 42 U.S.C. § 1983, and the Plaintiffs are entitled additionally to damages and attorneys' fees.

168. As a direct and proximate result of Defendant's actions, the Plaintiffs have suffered and continue to suffer substantial damages in an amount to be proven at trial.

TENTH CAUSE OF ACTION

Maryland Declaration of Rights, Article 24

169. Plaintiffs re-allege and incorporate each and every allegation set forth in Paragraphs 1-168 above.

170. Article 24 of the Maryland Declaration of Rights protects against deprivation of property without due process and equal protection of law.

171. The Baltimore Clean Air Act and its terms are manifestly arbitrary, capricious, or unreasonable, and an abuse of legislative discretion.

172. Defendant's actions in legislating the Baltimore Clean Air Act were not an exercise of reasoned judgment regarding proper air pollution control or guided by legal standards and scientific facts. The illegal conditions in the Act contradict the findings, conclusions, and standards set by EPA and MDE. Defendant failed to conduct any study or provide any reasoned analysis to support any of the limits and mandates imposed by the Act.

173. As described above, the Baltimore Clean Air Act was promulgated with no legislative fact finding and is not science-based. The almost non-existent record supporting the Act stands in stark contrast to the vast scientific and technical work by EPA and MDE supporting their regulations and Title V permits governing the Facilities.

174. By forcing a reduction in waste processing at the Wheelabrator Baltimore Facility and the Curtis Bay Facility through its draconian requirements, the Act will result in increased truck traffic on the roads in the City and the Baltimore Metropolitan region to transport waste to landfills, which in turn will cause increased vehicle emissions. The additional wastes diverted to landfills will increase regional greenhouse gas emissions.

175. Wheelabrator Baltimore has a vested property interest in its Facility, which has operated since 1985, and in its Title V permit issued pursuant to federal and state law. The Act lacks a rational basis and deprives Plaintiff of that right.

176. Curtis Bay has a vested property interest in its Facility, which has operated since 1991, and in its Title V permit issued pursuant to federal and state law. The Act lacks a rational basis and deprives Plaintiff of that right.

177. The Act treats the Facilities differently from similarly situated persons that generate air emissions in the City of Baltimore.

178. The Act is not rationally related to a legitimate government purpose.

179. The Act singles out the Wheelabrator Baltimore and Curtis Bay Facilities for disparate treatment and is designed and intended to force their closure.

180. Accordingly, Plaintiffs seek a declaration that the Act violates due process and equal protection rights guaranteed by Article 24 of the Maryland Declaration of Rights, and an injunction against the enforcement of the Act.

ELEVENTH CAUSE OF ACTION

Maryland Declaration of Rights, Article 19

181. Plaintiffs re-allege and incorporate each and every allegation set forth in Paragraphs 1-180 above.

182. Article 19 of the Maryland Declaration of Rights ensures a remedy in the courts for injury to property.

183. The Baltimore Clean Air Act has injured Wheelabrator Baltimore and Curtis Bay in their property by imposing an array of expensive requirements and standards that will be impossible to meet.

184. The Act has injured Wheelabrator Baltimore in its property by countermanding the Facility's Title V permit and Wheelabrator Baltimore's reasonable reliance on established federal and state regulation of that Facility.

185. The Act has injured Curtis Bay in its property by countermanding the Facility's Title V permit and Curtis Bay's reasonable reliance on established federal and state regulation of that Facility.

186. By singling out Wheelabrator Baltimore and Curtis Bay to suffer onerous restrictions, Defendant has abused its police powers to target these Plaintiffs. The City of Baltimore's actions injure and continue to injure Plaintiffs, and the City has failed to provide Plaintiffs any remedy for their injuries.

187. As a direct and proximate result of Defendant's actions, done under color of law, Plaintiffs have suffered substantial damages in an amount to be determined at trial. Damages continue to accrue.

188. Accordingly, Plaintiffs seek a declaration that the Baltimore Clean Air Act violates Plaintiffs' rights to a remedy at law guaranteed by Article 19 of the Maryland Declaration of Rights, and an injunction against the enforcement of the Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that this Court:

Pursuant to 28 U.S.C. § 2201, enter a declaratory judgment in Plaintiffs' favor declaring the Baltimore Clean Air Act to be unlawful, invalid, null, void, and preempted by federal and Maryland laws, ultra vires, arbitrary, unreasonable, and in violation of the Plaintiffs' rights under the United States and Maryland Constitutions;

Preliminarily and permanently enjoin Defendant, and anyone acting under the authority of or on behalf of Defendant, from enforcing or implementing the Baltimore Clean Air Act;

Award to Plaintiffs damages and its costs and fees under 42 U.S.C. § 1983, including attorney's fees; and

Grant such other and further relief as the Court deems just and proper.

Dated: April 30, 2019

Respectfully submitted,

/s/ Roy D. Prather III

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*Counsel for Plaintiff Curtis Bay Energy,
L.P.*

(signed with permission from M. Trent
Zivkovich and Michael Powell)

EXHIBITS

- Exhibit A: City Council Bill 18-0306, enacted and codified as Balt. City Health Code §8-110, *et seq*
- Exhibit B: Wheelabrator Baltimore's Title V permit
- Exhibit C: MDE Letter to EPA Submitting Maryland's SIP
- Exhibit D: Curtis Bay's Title V permit
- Exhibit E: Baltimore DPW Memorandum to Baltimore City Council, dated January 28, 2019
- Exhibit F: Baltimore DPW Fiscal Analysis of Possible Impacts of City Council Bill 18-0306, dated February 2019
- Exhibit G: Wheelabrator Baltimore's Refuse Disposal Permit (No. 2016-WTE-0030)
- Exhibit H: Curtis Bay's Refuse Disposal Permit (No. 2017-WMI-0036)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Wheelabrator Baltimore, L.P.; Curtis Bay Energy L.P.; Energy Recovery Council; National Waste & Recycling Association; TMS Hauling, LLC

(b) County of Residence of First Listed Plaintiff Baltimore City

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
(see attachment)

DEFENDANTS

Mayor and City Council of Baltimore

County of Residence of First Listed Defendant Baltimore City

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 7401 et seq.; 42 U.S.C. § 1983

Brief description of cause:

Clean Air Act preemption and constitutional challenge to ordinance

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/30/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Roy Prather III

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

ATTACHMENT TO CIVIL COVER SHEET

PLAINTIFFS' ATTORNEYS (Sec. I(c))

BEVERIDGE & DIAMOND, P.C.
Roy D. Prather, III (D.MD. ID no. 20157)
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*Counsel for Plaintiffs Wheelabrator
Baltimore, L.P.; Energy Recovery Council;
National Waste & Recycling Association; and
TMS Hauling, LLC*

WHITEFORD, TAYLOR &
PRESTON L.L.P.
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Baltimore, MD 21202
410-576-4000 (Phone)

Counsel for Plaintiff Curtis Bay Energy, L.P.

Exhibit A

CITY OF BALTIMORE
ORDINANCE 19-232
Council Bill 18-0306

Introduced by: Councilmembers Reisinger, Henry, Costello, Scott, Bullock, Stokes, Burnett,
Cohen, Middleton, Dorsey, Pinkett, Sneed, Clarke
Introduced and read first time: November 19, 2018
Assigned to: Land Use and Transportation Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: February 4, 2019

AN ORDINANCE CONCERNING

Health Code – Clean Air Regulation

FOR the purpose of regulating the emissions from commercial solid waste incinerators; defining certain terms; requiring the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; requiring the production and public disclosure of certain emissions reports; requiring commercial solid waste incinerators to allow certain inspections; establishing a certification process for air monitoring contractors; setting certain penalties; setting special effective dates; and generally relating to clean air regulations.

BY adding

Article - Health

Section(s) 8-110 to 8-126, to be under a new designation entitled

“Part II. Commercial Solid Waste Incinerators”

Baltimore City Code

(Edition 2000)

BY repealing and reordaining, without amendments

Article - Health

Section(s) 8-301

Baltimore City Revised Code

(Edition 2000)

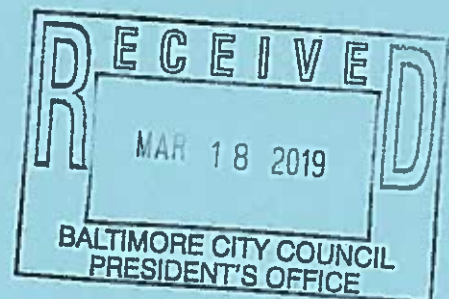
BY repealing and reordaining, with amendments

Article - Health

Section(s) 8-302

Baltimore City Revised Code

(Edition 2000)



EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 18-0306

1 BY repealing and reordaining, with amendments
2 Article 1 - Mayor, City Council, and Municipal Agencies
3 Section(s) 40-14(e)(7)(Title 8) and 41-14(6)(Title 8)
4 Baltimore City Code
5 (Edition 2000)

6 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the**
7 **Laws of Baltimore City read as follows:**

8 **Baltimore City Code**

9 **Article . Health**

10 **Title 8. Air Pollution**

11 ***Subtitle 1. Prohibited Emissions***

12 ***PART II. COMMERCIAL SOLID WASTE INCINERATORS***

13 **§ 8-110. SHORT TITLE AND PURPOSE.**

14 (A) *SHORT TITLE.*

15 THIS PART II SHALL BE KNOWN AND MAY BE CITED AS THE "BALTIMORE CLEAN AIR ACT"

16 (B) *PURPOSE.*

17 THE PURPOSE AND INTENT OF THIS PART II IS TO ENSURE THAT ACCURATE AND COMPLETE
18 INFORMATION IS AVAILABLE TO THE CITY AND GENERAL PUBLIC ABOUT POLLUTANTS
19 RELEASED FROM COMMERCIAL SOLID WASTE INCINERATORS WITHIN THE CITY AND TO
20 EXERCISE THE AUTHORITY GRANTED TO THE CITY UNDER THE MARYLAND ENVIRONMENT
21 CODE.

22 **§ 8-111. DEFINITIONS.**

23 (A) *IN GENERAL.*

24 THE FOLLOWING WORDS AND PHRASES WHEN USED WITHIN THIS PART II, UNLESS THE
25 CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE MEANING ASCRIBED TO THEM
26 IN THIS SECTION.

27 (B) *AIR MONITORING CONTRACTOR.*

28 "AIR MONITORING CONTRACTOR" MEANS AN ENVIRONMENTAL ENGINEER CERTIFIED BY
29 THE CITY TO DESIGN, INSTALL, OPERATE, AND MAINTAIN THE CONTINUOUS EMISSIONS
30 MONITORING SYSTEMS REQUIRED BY THIS PART II.

Council Bill 18-0306

1 (C) *COMMERCIAL SOLID WASTE INCINERATOR OR FACILITY -*

2 "COMMERCIAL SOLID WASTE INCINERATOR" OR "FACILITY" MEANS ANY FACILITY IN
3 BALTIMORE CITY THAT PRODUCES ENERGY OR DISPOSES OF WASTE BY COMBUSTING A
4 SOLID FUEL OR WASTE, OR GASES PRODUCED ON-SITE FROM THE GASIFICATION OR
5 PYROLYSIS OF A SOLID FUEL OR WASTE, AND WHICH IS CAPABLE OF PROCESSING AT LEAST
6 25 TONS OF SOLID FUEL OR WASTE PER DAY.

7 (D) *CONTINUOUS EMISSIONS MONITORING SYSTEM OR CEMS.*

8 (1) *IN GENERAL.*

9 "CONTINUOUS EMISSIONS MONITORING SYSTEM" OR "CEMS" MEANS A POLLUTION
10 MONITORING SYSTEM CAPABLE OF SAMPLING, CONDITIONING, ANALYZING, AND
11 PROVIDING A RECORD OF EMISSIONS AT FREQUENT INTERVALS THAT MEETS U.S.
12 ENVIRONMENTAL PROTECTION AGENCY OR MARYLAND DEPARTMENT OF THE
13 ENVIRONMENT DATA ACQUISITION AND AVAILABILITY REQUIREMENTS.

14 (2) *SAMPLING FREQUENCY.*

15 EXCEPT AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, THE SAMPLING
16 FREQUENCY CAPABILITY SUFFICIENT TO QUALIFY A SYSTEM AS A CEMS FOR THE
17 PURPOSES OF THIS PART II MUST AT A MINIMUM DELIVER A MONITORING SAMPLE:

18 (I) ONCE PER MINUTE; OR

19 (II) ANY LESSER FREQUENCY OF INTERVAL, UP TO NO LESS THAN ONCE PER HOUR,
20 THAT PROVIDES SUFFICIENT DATA FOR A DIRECT DETERMINATION OF
21 COMPLIANCE WITH ALL APPLICABLE EMISSION LIMITATIONS IMPOSED BY THIS
22 PART II.

23 (3) *DIOXIN AND FURAN SAMPLING.*

24 IN THE CASE OF DIOXINS AND FURANS, LONG-TERM SAMPLING EQUIPMENT MAY BE
25 USED IF REAL-TIME MONITORS ARE NOT COMMERCIALY AVAILABLE, SO LONG AS
26 YEAR-ROUND MONITORING IS STILL ACHIEVED THROUGH BACK-TO-BACK USE OF
27 LONG-TERM MONTHLY SAMPLES.

28 (E) *"PERSON".*

29 "PERSON" MEANS:

30 (1) AN INDIVIDUAL;

31 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
32 KIND;

33 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
34 REPRESENTATIVE OF ANY KIND.

Council Bill 18-0306

1 (F) *SOLID FUEL OR WASTE.*

2 "SOLID FUEL" OR "WASTE" MEANS ANY SOLID WASTE, DISCARDED MATERIAL,
3 RECYCLABLE MATERIALS, SLUDGES, BY-PRODUCTS, COMMERCIAL CHEMICAL PRODUCTS,
4 MUNICIPAL WASTE, HAZARDOUS WASTE, BIOMASS, PROCESSED DEBRIS, SPECIAL MEDICAL
5 WASTE, STERILIZED SPECIAL MEDICAL WASTE, SEWAGE SLUDGE, SCRAP TIRES, AUTO
6 SHREDDER RESIDUE, REFUSE-DERIVED FUEL, PROCESSED ENGINEERED FUEL, OR SOLID FUEL
7 PRODUCED FROM MUNICIPAL WASTE.

8 (G) $TEQ_{DF-WHO_{98}}$ -

9 " $TEQ_{DF-WHO_{98}}$ " MEANS A UNIT OF MEASUREMENT FOR DIOXINS AND FURANS,
10 STANDARDIZED TO TOXIC EQUIVALENTS, CALCULATED IN ACCORDANCE WITH THE WORLD
11 HEALTH ORGANIZATION'S 1998 METHOD.

12 **§ 8-112. SCOPE.**

13 ALL COMMERCIAL SOLID WASTE INCINERATORS LOCATED WITHIN BALTIMORE CITY ARE
14 SUBJECT TO THE REQUIREMENTS OF THIS PART II.

15 **§ 8-113. RULES AND REGULATIONS.**

16 (A) *HEALTH COMMISSIONER TO ADOPT.*

17 THE HEALTH COMMISSIONER MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS
18 PART II.

19 (B) *FILING WITH LEGISLATIVE REFERENCE.*

20 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS PART II MUST BE FILED
21 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

22 **§ 8-114. POLLUTANTS TO BE CONTINUOUSLY MONITORED.**

23 EACH FACILITY MUST, AT ITS OWN EXPENSE, CONTRACT WITH AN AIR MONITORING
24 CONTRACTOR CERTIFIED BY THE HEALTH COMMISSIONER IN ACCORDANCE WITH § 8-124
25 {"AIR MONITORING CONTRACTOR CERTIFICATION"} TO INSTALL, OPERATE, AND MAINTAIN
26 CONTINUOUS EMISSIONS MONITORING SYSTEMS ("CEMS") EQUIPMENT TO MONITOR,
27 MEASURE, AND DISCLOSE THE SMOKESTACK EMISSION OF THE FOLLOWING POLLUTANTS:

- 28 (1) DIOXINS AND FURANS, AS MEASURED AT A POINT, AFTER ALL AIR POLLUTION CONTROL
29 DEVICES, WHERE THE EXHAUST GASES HAVE COOLED TO BELOW 200 DEGREES
30 CENTIGRADE;
- 31 (2) CARBON DIOXIDE (CO₂) AND CARBON MONOXIDE (CO);
- 32 (3) HYDROCHLORIC ACID (HCL) AND HYDROFLUORIC ACID (HF);
- 33 (4) NITROGEN OXIDES (NOX);

Council Bill 18-0306

- 1 (5) SULFUR DIOXIDES (SO₂);
- 2 (6) PARTICULATE MATTER (PM);
- 3 (7) VOLATILE ORGANIC COMPOUNDS (VOCs);
- 4 (8) POLYCYCLIC AROMATIC HYDROCARBONS (PAHs); AND
- 5 (9) ARSENIC, CADMIUM, CHROMIUM (VI), LEAD, MANGANESE, MERCURY, NICKEL,
- 6 SELENIUM, AND ZINC.

7 **§ 8-115. MONITORING SYSTEM TO BE CONTINUOUSLY ACTIVE.**

8 (A) *IN GENERAL.*

9 A FACILITY'S CEMS MUST BE OPERATIONAL AT ALL TIMES THAT THE FACILITY IS
10 OPERATING.

11 (B) *GAPS OF MORE THAN 30 MINUTES A VIOLATION.*

12 CEMS DOWNTIME THAT EXCEEDS 30 CONSECUTIVE MINUTES WHILE A FACILITY IS
13 OPERATING ARE A VIOLATION OF THIS SECTION.

14 **§ 8-116. EMISSION LIMITS.**

15 (A) ~~LIMITS ON JANUARY 1, 2020~~ FOR MERCURY AND SULFUR DIOXIDE.

16 ~~STARTING JANUARY 1, 2020, EACH~~ EACH FACILITY MUST MEET THE FOLLOWING
17 POLLUTION LIMITS:

- | | |
|---|---|
| 18 (1) MERCURY: | 15 MICROGRAMS PER DRY STANDARD CUBIC METER |
| 19 | (μ G/DSCM) CORRECTED AT 7% O ₂ |
| 20 (2) SULFUR DIOXIDE (SO ₂): | 18 PARTS PER MILLION DRY VOLUME (PPMVD) |
| 21 | CORRECTED AT 7% O ₂ (24 HOUR GEOMETRIC MEAN) |

22 (B) ~~LIMITS ON JANUARY 1, 2022~~ LIMITS FOR DIOXINS/FURANS AND NITROGEN OXIDES.

23 STARTING JANUARY 1, 2022, IN ADDITION TO THE LIMITS IMPOSED BY SUBSECTION (B) OF THIS
24 SECTION, EACH FACILITY MUST MEET THE FOLLOWING POLLUTION LIMITS:

- | | |
|---------------------------------|--|
| 25 (1) DIOXINS/FURANS (PCDD/F): | 2.6 NANOGRAMS TEQ _{DF} -WHO ₉₈ PER DRY |
| 26 | STANDARD CUBIC METER (NG/DCSM) |
| 27 | CORRECTED AT 7% O ₂ |
| 28 (2) NITROGEN OXIDES (NOX): | 45 PARTS PER MILLION DRY VOLUME (PPMVD) |
| 29 | CORRECTED AT 7% O ₂ (24 HOUR BLOCK |
| 30 | ARITHMETIC MEAN) |

Council Bill 18-0306

40 PARTS PER MILLION DRY VOLUME (PPMVD)
CORRECTED AT 7% O₂ (12 MONTH ROLLING
AVERAGE)

§ 8-117. ADOPTION AND INCORPORATION OF OTHER LIMITS AND STANDARDS.

(A) ADOPTION OF MORE STRINGENT STATE OR FEDERAL STANDARDS.

IF THE U.S. ENVIRONMENTAL PROTECTION AGENCY OR THE STATE OF MARYLAND ADOPTS A MORE STRINGENT STANDARD, LIMIT, OR REQUIREMENT FOR THE EMISSION OF AIR CONTAMINANTS, A MORE STRINGENT STANDARD OF PERFORMANCE FOR ANY FACILITY REGULATED BY THIS PART II, OR A MORE STRINGENT STANDARD OF PERFORMANCE FOR STATIONARY SOURCES THAT WOULD APPLY TO A FACILITY THAN IS IMPOSED BY THIS PART II, THE FACILITY MUST MEET THE MORE STRINGENT REQUIREMENT.

(B) CITY ENFORCEMENT.

IT IS EXPRESSLY THE INTENT OF THE CITY IN ADOPTING THE STANDARDS, LIMITS, REQUIREMENTS, AND STANDARDS OF PERFORMANCE REFERENCED IN SUBSECTION (A) OF THIS SECTION TO MAKE THOSE MORE STRINGENT REQUIREMENTS INDEPENDENTLY ENFORCEABLE BY THE CITY OF BALTIMORE.

§ 8-118. TO § 8-119. {RESERVED}

§ 8-120. REQUIRED CEMS REPORTS.

(A) REPORTS REQUIRED.

(1) EACH FACILITY MUST PROVIDE A DAILY REPORT TO ITS AIR MONITORING CONTRACTOR THAT DETAILS:

(I) THE DAILY EMISSIONS FROM THE FACILITY OF THE POLLUTANTS LISTED IN § 8-114, {"POLLUTANTS TO BE CONTINUOUSLY MONITORED"} OF THIS PART II; AND

(II) THE REASONS FOR ANY CEMS DOWNTIME.

(2) ALL DATA SUPPLIED AS PART OF THE REPORTS REQUIRED BY THIS SECTION IS PROPERTY OF THE CITY OF BALTIMORE.

(B) FORM OF REPORT.

THE DAILY REPORT REQUIRED BY THIS SECTION MUST BE IN THE FORM SPECIFIED BY THE HEALTH COMMISSIONER AND INCLUDE ALL RELEVANT MACHINE READABLE RAW DATA.

(C) REASONABLE ACCESS REQUIRED.

A FACILITY MUST PROVIDE REASONABLE ACCESS TO ITS PROPERTY AND OPERATIONS TO THE AIR MONITORING CONTRACTOR RESPONSIBLE FOR PREPARING THE REPORTS REQUIRED BY THIS SECTION TO ENABLE THE REPORTS TO BE PREPARED AND VERIFIED.

Council Bill 18-0306

1 (D) *HISTORICAL REPORTS.*

2 EACH FACILITY MUST PROVIDE ITS AIR MONITORING CONTRACTOR WITH ALL EMISSIONS
3 REPORTS FOR THE FACILITY PREVIOUSLY PROVIDED TO THE MARYLAND DEPARTMENT OF THE
4 ENVIRONMENT, AND ANY PRIOR AIR MONITORING CONTRACTOR FOR THE FACILITY, AT THE
5 TIME THAT THE AIR MONITORING CONTRACTOR BEGINS MONITORING THE FACILITY.

6 **§ 8-121. DATA DISCLOSURE.**

7 (A) *IN GENERAL.*

8 (1) THE AIR MONITORING CONTRACTOR MUST DISCLOSE THE INFORMATION IT RECEIVES IN THE
9 DAILY REPORTS REQUIRED BY § 8-120(A) {"REQUIRED CEMS REPORTS: REPORTS
10 REQUIRED"} OF THIS PART II TO THE PUBLIC ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE
11 OF PROVIDING AN EASY TO READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

12 (2) THE AIR MONITORING CONTRACTOR MUST ARCHIVE ALL OF THE DAILY REPORTS RECEIVED
13 FROM A FACILITY UNDER § 8-120 {"REQUIRED CEMS REPORTS"} OF THIS PART II AND
14 MAKE THIS ARCHIVED HISTORICAL DATA, TOGETHER WITH ALL DATA PROVIDED BY THE
15 FACILITY UNDER § 8-120(D) {"REQUIRED CEMS REPORTS: HISTORICAL REPORTS"},
16 AVAILABLE ON A PUBLICLY ACCESSIBLE WEBPAGE CAPABLE OF PROVIDING AN EASY TO
17 READ GRAPHICAL PORTRAYAL OF THE INFORMATION.

18 (B) *REPORTS TO HEALTH DEPARTMENT.*

19 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PROVIDE REPORTS TO THE HEALTH
20 COMMISSIONER, IN THE FORM SPECIFIED BY THE COMMISSIONER AND INCLUDING ALL RELEVANT
21 MACHINE READABLE RAW DATA, ABOUT EMISSIONS FROM THE FACILITY:

22 (1) WHENEVER THE FACILITY EXCEEDS AN EMISSION LIMIT SET UNDER § 8-116 {"EMISSION
23 LIMITS"} OR § 8-117 {"ADOPTION AND INCORPORATION OF OTHER LIMITS AND
24 STANDARDS"};

25 (2) AT REGULAR INTERVALS SET BY THE COMMISSIONER; AND

26 (3) WHENEVER REQUESTED BY THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE.

27 **§ 8-122. INSPECTIONS.**

28 (A) *IN GENERAL.*

29 THE AIR MONITORING CONTRACTOR FOR A FACILITY MUST PERIODICALLY INSPECT THE
30 CONTINUOUS EMISSIONS MONITORING SYSTEMS INSTALLED AT THE FACILITY AND VERIFY
31 THAT THEY ARE OPERATING CORRECTLY.

32 (B) *TIMES AND INTERVALS.*

33 INSPECTIONS REQUIRED BY THIS SECTION MUST TAKE PLACE AT TIMES AND INTERVALS CHOSEN
34 BY THE HEALTH COMMISSIONER AND WILL NOT BE ANNOUNCED IN ADVANCE TO THE FACILITY.

Council Bill 18-0306

1 (C) *FREQUENCY.*

2 NO FEWER THAN 4 INSPECTIONS MUST BE CONDUCTED EACH CALENDAR YEAR.

3 § 8-123. {RESERVED}

4 § 8-124. AIR MONITORING CONTRACTOR CERTIFICATION.

5 (A) *REQUIRED CAPABILITIES.*

6 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST
7 DEMONSTRATE TO THE HEALTH COMMISSIONER'S SATISFACTION THAT IT, USING ITS OWN
8 RESOURCES OR IN PARTNERSHIP WITH 1 OR MORE CO-APPLICANTS, IS CAPABLE OF:

9 (1) PROCURING OR DEVELOPING, AND THEREAFTER INSTALLING, CEMS EQUIPMENT AT A
10 SUBJECT FACILITY;

11 (2) PERFORMING REGULAR INSPECTIONS AS REQUIRED BY § 8-122. {"INSPECTIONS"} OF THIS
12 PART II; AND

13 (3) DEVELOPING SOFTWARE UTILITIES CAPABLE OF CAPTURING AND PUBLICALLY
14 DISPLAYING CEMS DATA NEEDED FOR THE DAILY REPORTS REQUIRED BY § 8-120.
15 {"REQUIRED CEMS REPORTS"} OF THIS PART II.

16 (B) *CONFLICTS OF INTERESTS.*

17 IN ORDER TO BE CERTIFIED AS AN AIR MONITORING CONTRACTOR, AN APPLICANT MUST NOT
18 HAVE HAD A CONTRACT, OTHER THAN A CONTRACT TO PERFORM THE DUTIES OF AN AIR
19 MONITORING CONTRACTOR UNDER THIS PART II, WITH A FACILITY, OR THE OWNER OR
20 OPERATOR OF A FACILITY:

21 (1) WITHIN THE PAST 10 YEARS; OR

22 (2) FOR THE DURATION OF THEIR ROLE AS AN AIR MONITORING CONTRACTOR.

23 (C) *CERTIFICATION.*

24 THE NO LATER THAN 6 MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, THE
25 BALTIMORE CITY HEALTH DEPARTMENT SHALL CERTIFY AN APPLICANT MEETING THE
26 REQUIREMENTS OF SUBSECTIONS (A) AND (B) OF THIS SECTION AS AN AIR MONITORING
27 CONTRACTOR WITHIN 90 DAYS OF RECEIVING:

28 (1) INFORMATION, IN THE FORM REQUIRED BY THE HEALTH COMMISSIONER, SUFFICIENT TO
29 DEMONSTRATE THAT THE APPLICANT MEETS THE REQUIREMENTS OF SUBSECTIONS (A)
30 AND (B) OF THIS SECTION; AND

31 (2) PAYMENT OF THE APPLICATION FEE SET BY THE BOARD OF ESTIMATES.

Council Bill 18-0306

§ 8-125. CRIMINAL PENALTIES.

(A) IN GENERAL.

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS PART II, OR OF A RULE OR REGULATION ADOPTED UNDER THIS PART II, IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

(B) MULTIPLE SIMULTANEOUS VIOLATIONS.

IF A PERSON IS RESPONSIBLE FOR SIMULTANEOUS VIOLATIONS OF MORE THAN 1 SECTION OF THIS PART II, SIMULTANEOUSLY FAILING TO MONITOR, MEASURE, AND DISCLOSE THE EMISSION OF MORE THAN 1 POLLUTANT AS REQUIRED BY § 8-114 {"POLLUTANTS TO BE CONTINUOUSLY MONITORED"} OF THIS PART II, OR SIMULTANEOUSLY VIOLATING MORE THAN 1 STANDARD REQUIRED BY § 8-116 {"EMISSION LIMITS"} OF THIS PART II, EACH SEPARATE VIOLATION CONSTITUTES A SEPARATE OFFENSE.

(C) CONTINUING VIOLATIONS.

EACH DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE.

§ 8-126. SEVERABILITY.

ALL PROVISIONS OF THIS PART II ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

Subtitle 3. Penalties.

§ 8-301. Enforcement by citation.

(a) In general.

In addition to any other civil or criminal remedy or enforcement procedure, this title may be enforced by issuance of:

(1) an environmental citation under City Code Article 1, Subtitle 40 {"Environmental Control Board"}; or

(2) a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.

(b) Process not exclusive.

The issuance of a citation to enforce this title does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

Council Bill 18-0306

§ 8-302. Penalties: \$1,000.

(a) In general.

[Any] EXCEPT AS OTHERWISE SPECIFIED, ANY person who violates any provision of this title is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense.

(b) Each day a separate offense.

Each day that a violation continues is a separate offense.

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 40. Environmental Control Board

§ 40-14. Violations to which subtitle applies.

(e) Provisions and penalties enumerated.

(7) Health Code

....

Title 8: Air Pollution [\$100]

SUBTITLE 2: PROHIBITED EMISSIONS

PART II. COMMERCIAL SOLID WASTE INCINERATORS [\$1,000]

ALL OTHER PROVISIONS [\$100]

....

Subtitle 41. Civil Citations

§ 41-14. Offenses to which subtitle applies – Listing.

(6) Health Code

....

Title 8: Air Pollution [\$100]

SUBTITLE 2: PROHIBITED EMISSIONS

PART II. COMMERCIAL SOLID WASTE INCINERATORS [\$1,000]

ALL OTHER PROVISIONS [\$100]

....

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect 18 months after the date it is enacted, except as is hereafter provided.

Council Bill 18-0306

1 **SECTION 4. AND BE IT FURTHER ORDAINED,** That the Health Commissioner may begin to certify
2 Air Monitoring Contractors in accordance with § 8-124 {"Air Monitoring Contractor certification"} of
3 this Ordinance ~~6 months after the date it is enacted~~ on or after the date this Ordinance is enacted.

Certified as duly passed this _____ day of FEB 11 2019



President, Baltimore City Council

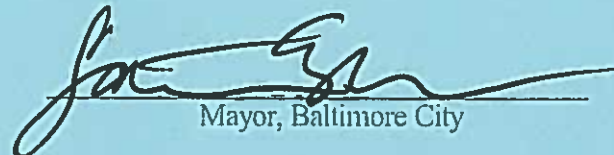
Certified as duly delivered to Her Honor, the Mayor,

this _____ day of FEB 11 2019, 20____



Chief Clerk

Approved this 7th day of March, 2019



Mayor, Baltimore City

Exhibit B

KEEP PERMIT AT SITE

CONTROL NO. B- 04297

Martin O'Malley
Governor



Robert M. Summers, Ph.D.
Secretary

DEPARTMENT OF THE ENVIRONMENT

Air and Radiation Management Administration
1800 Washington Boulevard, Suite 720
Baltimore, MD 21230

☐ Construction Permit

Revised Part 70
☒ Operating Permit

PERMIT NO. 24-510-01886 A

DATE ISSUED April 1, 2014

PERMIT FEE To be paid in accordance with
COMAR 26.11.02.19B(b)

EXPIRATION DATE August 31, 2019

LEGAL OWNER & ADDRESS

Wheelabrator Baltimore, L.P.
1801 Annapolis Road
Baltimore, MD 21230
Attn: Mr. David Jones, Plant Manager

SITE

Same

Baltimore City
AI#472

SOURCE DESCRIPTION

Municipal waste combustor.

This source is subject to the conditions described on the attached pages.

Page 1 of 52

Program Manager

Director, Air and Radiation Management Administration

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

SECTION I	SOURCE IDENTIFICATION	4
1.	DESCRIPTION OF FACILITY	4
2.	FACILITY INVENTORY LIST	5
SECTION II	GENERAL CONDITIONS	6
1.	DEFINITIONS	6
2.	ACRONYMS	6
3.	EFFECTIVE DATE	7
4.	PERMIT EXPIRATION	7
5.	PERMIT RENEWAL	7
6.	CONFIDENTIAL INFORMATION	8
7.	PERMIT ACTIONS	8
8.	PERMIT AVAILABILITY	9
9.	REOPENING THE PART 70 PERMIT FOR CAUSE BY THE EPA	9
10.	TRANSFER OF PERMIT	9
11.	REVISION OF PART 70 PERMITS – GENERAL CONDITIONS	9
12.	SIGNIFICANT PART 70 OPERATING PERMIT MODIFICATIONS	10
13.	MINOR PERMIT MODIFICATIONS	11
14.	ADMINISTRATIVE PART 70 OPERATING PERMIT AMENDMENTS	14
15.	OFF-PERMIT CHANGES TO THIS SOURCE	16
16.	ON-PERMIT CHANGES TO SOURCES	17
17.	FEE PAYMENT	19
18.	REQUIREMENTS FOR PERMITS-TO-CONSTRUCT AND APPROVALS	19
19.	CONSOLIDATION OF PROCEDURES FOR PUBLIC PARTICIPATION	20
20.	PROPERTY RIGHTS	21
21.	SEVERABILITY	21
22.	INSPECTION AND ENTRY	21
23.	DUTY TO PROVIDE INFORMATION	22
24.	COMPLIANCE REQUIREMENTS	22
25.	CREDIBLE EVIDENCE	23
26.	NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE	23
27.	CIRCUMVENTION	23
28.	PERMIT SHIELD	23
29.	ALTERNATE OPERATING SCENARIOS	24
SECTION III	PLANT WIDE CONDITIONS	25
1.	PARTICULATE MATTER FROM CONSTRUCTION AND DEMOLITION	25
2.	OPEN BURNING	25
3.	AIR POLLUTION EPISODE	25
4.	REPORT OF EXCESS EMISSIONS AND DEVIATIONS	25
5.	ACCIDENTAL RELEASE PROVISIONS	27
6.	GENERAL TESTING REQUIREMENTS	27
7.	EMISSIONS TEST METHODS	27
8.	EMISSIONS CERTIFICATION REPORT	28
9.	COMPLIANCE CERTIFICATION REPORT	29
10.	CERTIFICATION BY RESPONSIBLE OFFICIAL	30
11.	SAMPLING AND EMISSIONS TESTING RECORD KEEPING	30
12.	GENERAL RECORDKEEPING	31

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

13.	GENERAL CONFORMITY	31
14.	ASBESTOS PROVISIONS	31
15.	OZONE DEPLETING REGULATIONS.....	32
16.	ACID RAIN PERMIT	32
SECTION IV	PLANT SPECIFIC CONDITIONS.....	33
SECTION V	INSIGNIFICANT ACTIVITIES	47
SECTION VI	STATE-ONLY ENFORCEABLE CONDITIONS	52

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

SECTION I SOURCE IDENTIFICATION

1. DESCRIPTION OF FACILITY

Wheelabrator Baltimore, L.P. (the "Company"), formerly known as Baltimore RESCO Company, L.P., operates a municipal solid waste resource recovery facility (SIC Code 4953). The facility consists of three large mass burn waterwall municipal waste combustors (MWC) each rated at 750 tons per day (TPD) yielding a facility wide capacity of 2,250 TPD. The steam that is generated by the MWCs is either sold to a steam distribution system or used to produce electricity via an on-site steam turbine.

Combustion gases are exhausted through a stack (Emission Point EP1) that contains three flues, one for each of the three MWCs. Each MWC train is equipped with an urea injection selective non-catalytic reduction (SNCR) system to control NO_x emissions, a "slaked lime" spray dryer absorber (SDA) system to control acid gas emissions, an activated carbon injection system for mercury and dioxin/furan removal, and a four field electrostatic precipitator (ESP) to remove particulate matter and metals from the exhaust stream. Each stack flue is equipped with a continuous opacity monitoring system (COMS) and continuous emission monitoring systems (CEMS) for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and carbon monoxide (CO), as well as oxygen (O₂) and carbon dioxide (CO₂) to monitor stack gas dilution. Additionally, SO₂ and O₂ CEMS are located upstream of control devices for determining percent reduction of SO₂.

Three wet scrubbers are used to control particulate matter from the ash handling areas. One wet scrubber controls particulate emissions from the ash handling area vent. The second wet scrubber is used to control particulate matter from the ash loadout area vent. A third wet scrubber is used to control particulate emissions from the ash trommel area vent. All three wet scrubbers are operated on an as-needed basis to ensure that particulate matter is controlled from ash handling areas.

Other registered equipment at this facility include three (3) lime storage silos equipped with a common bin vent filter, and one (1) activated carbon storage silo equipped with a bin vent bag filter. Both silos dispense their respective materials into a closed system that minimizes the potential for fugitive emissions.

The ash handling areas and the storage silos have a potential to emit for particulate matter of less than 1 ton per year. Consequently, for the purposes of the Company's Part 70 permit, these sources have been listed in the insignificant activities section of the permit.

PERMIT REVISIONS

In response to the Environmental Protection Agency's Order which partially granted and partially denied the citizen petition for EPA to object to the issuance of the Title V operating permit for the Wheelabrator Baltimore, L.P. facility, the Department revised the and reissued the permit on November 1, 2011. In the reissued permit, the Department revised the averaging time for Prevention of Deterioration (PSD) limits for the emissions

WHEELABRATOR BALTIMORE, L.P.**1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886**

of nitrogen oxides (NO_x), sulfur dioxide (SO₂) and carbon monoxide so that they are equivalent to times established in the original PSD permit issued in 1982. The PSD permit states that compliance with the emissions limits will be determined based on the results of the average of 3 to 9 stack test runs. The Part 70 permit originally issued set a 24-hour averaging time for NO_x and CO and a 3 hour averaging time for SO₂ when compliance is demonstrated with use of data collected by continuous emissions monitoring systems. In the revision the averaging time was set at 8 hours for all three pollutants.

In addition, the permit issued on November 1, 2011 contains language to explain the methodology that Wheelabrator uses to convert concentration measurements in units of parts per million (ppm) into mass emissions rate of pounds per hour. Continuous emissions monitoring systems measure concentrations of air pollutants in a gas stream. PSD emissions limits are expressed in pounds per hour. The revised permit provides the formula that will be used for the conversion when CEM data is used to demonstrate compliance with the PSD limits. These changes are retained in the renewal permit.

2. FACILITY INVENTORY LIST

The Company has identified the following emission units at the Baltimore City facility as being subject to Title V permitting requirements and having applicable requirements.

Table 2: Emission Unit Identification

Emissions Unit Number	MDE Registration Number	Emissions Unit Name and Description	Date of Installation
Emission Unit 1	510-1886-2-0255	One (1) 750 TPD Wheelabrator-Frye mass burn waterwall municipal waste combustor equipped with SNCR, SDA, ESP and activated carbon injection systems.	May 1985
Emission Unit 2	510-1886-2-0256	One (1) 750 TPD Wheelabrator-Frye mass burn waterwall municipal waste combustor equipped with SNCR, SDA, ESP and activated carbon injection systems.	May 1985
Emission Unit 3	510-1886-2-0257	One (1) 750 TPD Wheelabrator-Frye mass burn waterwall municipal waste combustor equipped with SNCR, SDA, ESP and activated carbon injection systems.	May 1985

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

SECTION II GENERAL CONDITIONS

1. DEFINITIONS

[COMAR 26.11.01.01] and [COMAR 26.11.02.01]

The words or terms in this Part 70 permit shall have the meanings established under COMAR 26.11.01 and .02 unless otherwise stated in this permit.

2. ACRONYMS

ARMA	Air and Radiation Management Administration
BACT	Best Available Control Technology
Btu	British thermal unit
CAA	Clean Air Act
CAM	Compliance Assurance Monitoring
CEM	Continuous Emissions Monitor
CFR	Code of Federal Regulations
CO	Carbon Monoxide
COMAR	Code of Maryland Regulations
EPA	United States Environmental Protection Agency
FR	Federal Register
gr	grains
HAP	Hazardous Air Pollutant
MACT	Maximum Achievable Control Technology
MDE	Maryland Department of the Environment
MVAC	Motor Vehicle Air Conditioner
NESHAPS	National Emission Standards for Hazardous Air Pollutants
NO _x	Nitrogen Oxides
NSPS	New Source Performance Standards
NSR	New Source Review
OTR	Ozone Transport Region
PM	Particulate Matter
PM10	Particulate Matter with Nominal Aerodynamic Diameter of 10 micrometers or less
ppm	parts per million
ppb	parts per billion
PSD	Prevention of Significant Deterioration
PTC	Permit to construct
PTO	Permit to operate (State)
SIC	Standard Industrial Classification
SO ₂	Sulfur Dioxide

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

TAP	Toxic Air Pollutant
tpy	tons per year
VE	Visible Emissions
VOC	Volatile Organic Compounds

3. EFFECTIVE DATE

The effective date of the conditions in this Part 70 permit is the date of permit issuance, unless otherwise stated in the permit.

4. PERMIT EXPIRATION

[COMAR 26.11.03.13B(2)]

Upon expiration of this permit, the terms of the permit will automatically continue to remain in effect until a new Part 70 permit is issued for this facility provided that the Permittee has submitted a timely and complete application and has paid applicable fees under COMAR 26.11.02.16.

Otherwise, upon expiration of this permit the right of the Permittee to operate this facility is terminated.

5. PERMIT RENEWAL

[COMAR 26.11.03.02B(3)] and [COMAR 26.11.03.02E]

The Permittee shall submit to the Department a completed application for renewal of this Part 70 permit at least 12 months before the expiration of the permit. Upon submitting a completed application, the Permittee may continue to operate this facility pending final action by the Department on the renewal.

The Permittee, upon becoming aware that any relevant facts were omitted or incorrect information was submitted in the permit application, shall submit such supplementary facts or corrected information no later than 10 days after becoming aware that this occurred. The Permittee shall also provide additional information as necessary to address any requirements that become applicable to the facility after the date a completed application was submitted, but prior to the release of a draft permit. This information shall be submitted to the Department no later than 20 days after a new requirement has been adopted.

**WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886**

6. CONFIDENTIAL INFORMATION

[COMAR 26.11.02.02G]

In accordance with the provisions of the State Government Article, Sec. 10-611 et seq., Annotated Code of Maryland, all information submitted in an application shall be considered part of the public record and be available for inspection and copying, unless the Permittee claims that the information is confidential when it is submitted to the Department. At the time of the request for inspection or copying, the Department will make a determination with regard to the confidentiality of the information. The Permittee, when requesting confidentiality, shall identify the information in a manner specified by the Department and, when requested by the Department, promptly provide specific reasons supporting the claim of confidentiality. Information submitted to the Department without a request that the information be deemed confidential may be made available to the public. Subject to approval of the Department, the Permittee may provide a summary of confidential information that is suitable for public review. The content of this Part 70 permit is not subject to confidential treatment.

7. PERMIT ACTIONS

[COMAR 26.11.03.06E(3)] and [COMAR 26.11.03.20(A)]

This Part 70 permit may be revoked or reopened and revised for cause. The filing of an application by the Permittee for a permit revision or renewal; or a notification of termination, planned changes or anticipated noncompliance by the facility, does not stay a term or condition of this permit.

The Department shall reopen and revise, or revoke the Permittee's Part 70 permit under the following circumstances:

- a. Additional requirements of the Clean Air Act become applicable to this facility and the remaining permit term is 3 years or more;
- b. The Department or the EPA determines that this Part 70 permit contains a material mistake, or is based on false or inaccurate information supplied by or on behalf of the Permittee;

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- c. The Department or the EPA determines that this Part 70 permit must be revised or revoked to assure compliance with applicable requirements of the Clean Air Act; or
- d. Additional requirements become applicable to an affected source under the Federal Acid Rain Program.

8. PERMIT AVAILABILITY

[COMAR 26.11.02.13G]

The Permittee shall maintain this Part 70 permit in the vicinity of the facility for which it was issued, unless it is not practical to do so, and make this permit immediately available to officials of the Department upon request.

9. REOPENING THE PART 70 PERMIT FOR CAUSE BY THE EPA

[COMAR 26.11.03.20B]

The EPA may terminate, modify, or revoke and reissue a permit for cause as prescribed in 40 CFR §70.7(g)

10. TRANSFER OF PERMIT

[COMAR 26.11.02.02E]

The Permittee shall not transfer this Part 70 permit except as provided in COMAR 26.11.03.15.

11. REVISION OF PART 70 PERMITS – GENERAL CONDITIONS

[COMAR 26.11.03.14] and [COMAR 26.11.03.06A(8)]

- a. The Permittee shall submit an application to the Department to revise this Part 70 permit when required under COMAR 26.11.03.15 -.17.
- b. When applying for a revision to a Part 70 permit, the Permittee shall comply with the requirements of COMAR 26.11.03.02 and .03 except that the application for a revision need include only information listed that is related to the proposed change to the source and revision to

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

the permit. This information shall be sufficient to evaluate the proposed change and to determine whether it will comply with all applicable requirements of the Clean Air Act.

- c. The Permittee may not change any provision of a compliance plan or schedule in a Part 70 permit as an administrative permit amendment or as a minor permit modification unless the change has been approved by the Department in writing.
- d. A permit revision is not required for a change that is provided for in this permit relating to approved economic incentives, marketable permits, emissions trading, and other similar programs.

12. SIGNIFICANT PART 70 OPERATING PERMIT MODIFICATIONS

[COMAR 26.11.03.17]

The Permittee may apply to the Department to make a significant modification to its Part 70 Permit as provided in COMAR 26.11.03.17 and in accordance with the following conditions:

- a. A significant modification is a revision to the federally enforceable provisions in the permit that does not qualify as an administrative permit amendment under COMAR 26.11.03.15 or a minor permit modification as defined under COMAR 26.11.03.16.
- b. This permit does not preclude the Permittee from making changes, consistent with the provisions of COMAR 26.11.03, that would make the permit or particular terms and conditions of the permit irrelevant, such as by shutting down or reducing the level of operation of a source or of an emissions unit within the source. Air pollution control equipment shall not be shut down or its level of operation reduced if doing so would violate any term of this permit.
- c. Significant permit modifications are subject to all requirements of COMAR 26.11.03 as they apply to permit issuance and renewal, including the requirements for applications, public participation, and review by affected states and EPA, except:
 - (1) An application need include only information pertaining to the proposed change to the source and modification of this permit, including a description of the change and modification, and any

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

new applicable requirements of the Clean Air Act that will apply if the change occurs;

- (2) Public participation, and review by affected states and EPA, is limited to only the application and those federally enforceable terms and conditions of the Part 70 permit that are affected by the significant permit modification.
- d. As provided in COMAR 26.11.03.15B(5), an administrative permit amendment may be used to make a change that would otherwise require a significant permit modification if procedures for enhanced preconstruction review of the change are followed that satisfy the requirements of 40 CFR 70.7(d)(1)(v).
- e. Before making a change that qualifies as a significant permit modification, the Permittee shall obtain all permits-to-construct and approvals required by COMAR 26.11.02.
- f. The Permittee shall not make a significant permit modification that results in a violation of any applicable requirement of the Clean Air Act.
- g. The permit shield in COMAR 26.11.03.23 applies to a final significant permit modification that has been issued by the Department, to the extent applicable under COMAR 26.11.03.23.

13. MINOR PERMIT MODIFICATIONS

[COMAR 26.11.03.16]

The Permittee may apply to the Department to make a minor modification to the federally enforceable provisions of this Part 70 permit as provided in COMAR 26.11.03.16 and in accordance with the following conditions:

- a. A minor permit modification is a Part 70 permit revision that:
 - (1) Does not result in a violation of any applicable requirement of the Clean Air Act;
 - (2) Does not significantly revise existing federally enforceable monitoring, including test methods, reporting, record keeping, or compliance certification requirements except by:

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- (a) Adding new requirements,
 - (b) Eliminating the requirements if they are rendered meaningless because the emissions to which the requirements apply will no longer occur, or
 - (c) Changing from one approved test method for a pollutant and source category to another;
- (3) Does not require or modify a:
- (a) Case-by-case determination of a federally enforceable emissions standard,
 - (b) Source specific determination for temporary sources of ambient impacts, or
 - (c) Visibility or increment analysis;
- (4) Does not seek to establish or modify a federally enforceable permit term or condition for which there is no corresponding underlying applicable requirement of the Clean Air Act, but that the Permittee has assumed to avoid an applicable requirement to which the source would otherwise be subject, including:
- (a) A federally enforceable emissions standard applied to the source pursuant to COMAR 26.11.02.03 to avoid classification as a Title I modification; and
 - (b) An alternative emissions standard applied to an emissions unit pursuant to regulations promulgated under Section 112(i)(5) of the Clean Air Act
- (5) Is not a Title I modification; and
- (6) Is not required under COMAR 26.11.03.17 to be processed as a significant modification to this Part 70 permit.
- b. Application for a Minor Permit Modification

The Permittee shall submit to the Department an application for a minor permit modification that satisfies the requirements of COMAR 26.11.03.03 which includes the following:

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- (1) A description of the proposed change, the emissions resulting from the change, and any new applicable requirements that will apply if the change is made;
- (2) The proposed minor permit modification;
- (3) Certification by a responsible official, in accordance with COMAR 26.11.02.02F, that:
 - (a) The proposed change meets the criteria for a minor permit modification, and
 - (b) The Permittee has obtained or applied for all required permits-to-construct required by COMAR 26.11.03.16 with respect to the proposed change;
- (4) Completed forms for the Department to use to notify the EPA and affected states, as required by COMAR 26.11.03.07-.12.

c. Permittee's Ability to Make Change

- (1) For changes proposed as minor permit modifications to this permit that will require the applicant to obtain a permit to construct, the permit to construct must be issued prior to the new change.
- (2) During the period of time after the Permittee applies for a minor modification but before the Department acts in accordance with COMAR 26.11.03.16F(2):
 - (a) The Permittee shall comply with applicable requirements of the Clean Air Act related to the change and the permit terms and conditions described in the application for the minor modification.
 - (b) The Permittee is not required to comply with the terms and conditions in the permit it seeks to modify. If the Permittee fails to comply with the terms and conditions in the application during this time, the terms and conditions of both this permit and the application for modification may be enforced against it.

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- d. The Permittee is subject to enforcement action if it is determined at any time that a change made under COMAR 26.11.03.16 is not within the scope of this regulation.
- e. Minor permit modification procedures may be used for Part 70 permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, but only to the extent that the minor permit modification procedures are explicitly provided for in regulations approved by the EPA as part of the Maryland SIP or in other applicable requirements of the Clean Air Act.

14. ADMINISTRATIVE PART 70 OPERATING PERMIT AMENDMENTS

[COMAR 26.11.03.15]

The Permittee may apply to the department to make an administrative permit amendment as provided in COMAR 26.11.03.15 and in accordance with the following conditions:

- a. An application for an administrative permit amendment shall:
 - (1) Be in writing;
 - (2) Include a statement certified by a responsible official that the proposed amendment meets the criteria in COMAR 26.11.03.15 for an administrative permit amendment, and
 - (3) Identify those provisions of this part 70 permit for which the amendment is requested, including the basis for the request.
- b. An administrative permit amendment:
 - (1) Is a correction of a typographical error;
 - (2) Identifies a change in the name, address, or phone number of a person identified in this permit, or a similar administrative change involving the Permittee or other matters which are not directly related to the control of air pollution;
 - (3) requires more frequent monitoring or reporting by the Permittee;

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- (4) Allows for a change in ownership or operational control of a source for which the Department determines that no other revision to the permit is necessary and is documented as per COMAR 26.11.03.15B(4);
 - (5) Incorporates into this permit the requirements from preconstruction review permits or approvals issued by the Department in accordance with COMAR 26.11.03.15B(5), but only if it satisfies 40 CFR 70.7(d)(1)(v);
 - (6) Incorporates any other type of change, as approved by the EPA, which is similar to those in COMAR 26.11.03.15B(1)—(4);
 - (7) Notwithstanding COMAR 26.11.03.15B(1)—(6), all modifications to acid rain control provisions included in this Part 70 permit are governed by applicable requirements promulgated under Title IV of the Clean Air Act; or
 - (8) Incorporates any change to a term or condition specified as State-only enforceable, if the Permittee has obtained all necessary permits-to-construct and approvals that apply to the change.
- c. The Permittee may make the change addressed in the application for an administrative amendment upon receipt by the Department of the application, if all permits-to-construct or approvals otherwise required by COMAR 26.11.02 prior to making the change have first been obtained from the Department.
 - d. The permit shield in COMAR 26.11.03.23 applies to administrative permit amendments made under Section B(5) of COMAR 26.11.03.15 , but only after the Department takes final action to revise the permit.
 - e. The Permittee is subject to enforcement action if it is determined at any time that a change made under COMAR 26.11.03.15 is not within the scope of this regulation.

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

15. OFF-PERMIT CHANGES TO THIS SOURCE

[COMAR 26.11.03.19]

The Permittee may make off-permit changes to this facility as provided in COMAR 26.11.03.19 and in accordance with the following conditions:

- a. The Permittee may make a change to this permitted facility that is not addressed or prohibited by the federally enforceable conditions of this Part 70 permit without obtaining a Part 70 permit revision if:
 - (1) The Permittee has obtained all permits and approvals required by COMAR 26.11.02 and .03;
 - (2) The change is not subject to any requirements under Title IV of the Clean Air Act;
 - (3) The change is not a Title I modification; and
 - (4) The change does not violate an applicable requirement of the Clean Air Act or a federally enforceable term or condition of the permit.
- b. For a change that qualifies under COMAR 26.11.03.19, the Permittee shall provide contemporaneous written notice to the Department and the EPA, except for a change to an emissions unit or activity that is exempt from the Part 70 permit application, as provided in COMAR 26.11.03.04. This written notice shall describe the change, including the date it was made, any change in emissions, including the pollutants emitted, and any new applicable requirements of the Clean Air Act that apply as a result of the change.
- c. Upon satisfying the requirements of COMAR 26.11.03.19, the Permittee may make the proposed change.
- d. The Permittee shall keep a record describing:
 - (1) Changes made at the facility that result in emissions of a regulated air pollutant subject to an applicable requirement of the Clean Air Act , but not otherwise regulated under this permit; and
 - (2) The emissions resulting from those changes.

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- e. Changes that qualify under COMAR 26.11.03.19 are not subject to the requirements for Part 70 revisions.
- f. The Permittee shall include each off-permit change under COMAR 26.11.03.19 in the application for renewal of the part 70 permit.
- g. The permit shield in COMAR 26.11.03.23 does not apply to off-permit changes made under COMAR 26.11.03.19.
- h. The Permittee is subject to enforcement action if it is determined that an off-permit change made under COMAR 26.11.03.19 is not within the scope of this regulation.

16. ON-PERMIT CHANGES TO SOURCES

[COMAR 26.11.03.18]

The Permittee may make on-permit changes that are allowed under Section 502(b)(10) of the Clean Air Act as provided in COMAR 26.11.03.18 and in accordance with the following conditions:

- a. The Permittee may make a change to this facility without obtaining a revision to this Part 70 permit if:
 - (1) The change is not a Title I modification;
 - (2) The change does not result in emissions in excess of those expressly allowed under the federally enforceable provisions of the Part 70 permit for the permitted facility or for an emissions unit within the facility, whether expressed as a rate of emissions or in terms of total emissions;
 - (3) The Permittee has obtained all permits and approvals required by COMAR 26.11.02 and .03;
 - (4) The change does not violate an applicable requirement of the Clean Air Act;
 - (5) The change does not violate a federally enforceable permit term or condition related to monitoring, including test methods, record keeping, reporting, or compliance certification requirements;

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- (6) The change does not violate a federally enforceable permit term or condition limiting hours of operation, work practices, fuel usage, raw material usage, or production levels if the term or condition has been established to limit emissions allowable under this permit;
 - (7) If applicable, the change does not modify a federally enforceable provision of a compliance plan or schedule in this Part 70 permit unless the Department has approved the change in writing; and
 - (8) This permit does not expressly prohibit the change under COMAR 26.11.03.18.
- b. The Permittee shall notify the Department and the EPA in writing of a proposed on-permit change under COMAR 26.11.03.18 not later than 7 days before the change is made. The written information shall include the following information:
 - (1) A description of the proposed change;
 - (2) The date on which the change is proposed to be made;
 - (3) Any change in emissions resulting from the change, including the pollutants emitted;
 - (4) Any new applicable requirement of the Clean Air Act; and
 - (5) Any permit term or condition that would no longer apply.
- c. The responsible official of this facility shall certify in accordance with COMAR 26.11.02.02F that the proposed change meets the criteria for the use of on-permit changes under COMAR 26.11.03.18.
- d. The Permittee shall attach a copy of each notice required by condition b. above to this Part 70 permit.
- e. On-permit changes that qualify under COMAR 26.11.03.18 are not subject to the requirements for part 70 permit revisions.
- f. Upon satisfying the requirements under COMAR 26.11.03.18, the Permittee may make the proposed change.

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- g. The permit shield in COMAR 26.11.03.23 does not apply to on-permit changes under COMAR 26.11.03.18.
- h. The Permittee is subject to enforcement action if it is determined that an on-permit change made under COMAR 26.11.03.18 is not within the scope of the regulation or violates any requirement of the State air pollution control law.

17. FEE PAYMENT

[COMAR 26.11.02.16A(2) & (5)(b)]

- a. The fee for this Part 70 permit is as prescribed in Regulation .19 of COMAR 26.11.02.
- b. The fee is due on and shall be paid on or before each 12-month anniversary date of the permit.
- c. Failure to pay the annual permit fee constitutes cause for revocation of the permit by the Department.

18. REQUIREMENTS FOR PERMITS-TO-CONSTRUCT AND APPROVALS

[COMAR 26.11.02.09.]

The Permittee may not construct or modify or cause to be constructed or modified any of the following sources without first obtaining, and having in current effect, the specified permits-to-construct and approvals:

- a. New Source Review source, as defined in COMAR 26.11.01.01, approval required, except for generating stations constructed by electric companies;
- b. Prevention of Significant Deterioration source, as defined in COMAR 26.11.01.01, approval required, except for generating stations constructed by electric companies;
- c. New Source Performance Standard source, as defined in COMAR 26.11.01.01, permit to construct required, except for generating stations constructed by electric companies;

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- d. National Emission Standards for Hazardous Air Pollutants source, as defined in COMAR 26.11.01.01, permit to construct required, except for generating stations constructed by electric companies;
- e. A stationary source of lead that discharges one ton per year or more of lead or lead compounds measured as elemental lead, permit to construct required, except for generating stations constructed by electric companies;
- f. All stationary sources of air pollution, including installations and air pollution control equipment, except as listed in COMAR 26.11.02.10, permit to construct required;
- g. In the event of a conflict between the applicability of (a.— e.) above and an exemption listed in COMAR 26.11.02.10, the provision that requires a permit applies.
- h. Approval of a PSD or NSR source by the Department does not relieve the Permittee obtaining an approval from also obtaining all permits-to-construct required b y (c.— g.) above.

19. CONSOLIDATION OF PROCEDURES FOR PUBLIC PARTICIPATION

[COMAR 26.11.02.11C] and [COMAR 26.11.03.01K]

The Permittee may request the Department to authorize special procedures for the Permittee to apply simultaneously, to the extent possible, for a permit to construct and a revision to this permit.

These procedures may provide for combined public notices, informational meetings, and public hearings for both permits but shall not adversely affect the rights of a person, including EPA and affected states, to obtain information about the application for a permit, to comment on an application, or to challenge a permit that is issued.

These procedures shall not alter any existing permit procedures or time frames.

**WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886**

20. PROPERTY RIGHTS

[COMAR 26.11.03.06E(4)]

This Part 70 permit does not convey any property rights of any sort, or any exclusive privileges.

21. SEVERABILITY

[COMAR 26.11.03.06A(5)]

If any portion of this Part 70 permit is challenged, or any term or condition deemed unenforceable, the remainder of the requirements of the permit continues to be valid.

22. INSPECTION AND ENTRY

[COMAR 26.11.03.06G(3)]

The Permittee shall allow employees and authorized representatives of the Department, the EPA, and local environmental health agencies, upon presentation of credentials or other documents as may be required by law, to:

- a. Enter at a reasonable time without delay and without prior notification the Permittee's property where a Part 70 source is located, emissions-related activity is conducted, or records required by this permit are kept;
- b. Have access to and make copies of records required by the permit;
- c. Inspect all emissions units within the facility subject to the permit and all related monitoring systems, air pollution control equipment, and practices or operations regulated or required by the permit; and
- d. Sample or monitor any substances or parameters at or related to the emissions units at the facility for the purpose of determining compliance with the permit.

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

23. DUTY TO PROVIDE INFORMATION

[COMAR 26.11.03.06E(5)]

The Permittee shall furnish to the Department, within a reasonable time specified by the Department, information requested in writing by the Department in order to determine whether the Permittee is in compliance with the federally enforceable conditions of this Part 70 permit, or whether cause exists for revising or revoking the permit. Upon request, the Permittee shall also furnish to the Department records required to be kept under the permit.

For information claimed by the Permittee to be confidential and therefore potentially not discloseable to the public, the Department may require the Permittee to provide a copy of the records directly to the EPA along with a claim of confidentiality.

The Permittee shall also furnish to the Department, within a reasonable time specified by the Department, information or records requested in writing by the Department in order to determine if the Permittee is in compliance with the State-only enforceable conditions of this permit.

24. COMPLIANCE REQUIREMENTS

[COMAR 26.11.03.06E(1)] and [COMAR 26.11.03.06A(11)] and [COMAR 26.11.02.05]

The Permittee shall comply with the conditions of this Part 70 permit. Noncompliance with the permit constitutes a violation of the Clean Air Act, and/or the Environment Article Title 2 of the Annotated Code of Maryland and may subject the Permittee to:

- a. Enforcement action,
- b. Permit revocation or revision,
- c. Denial of the renewal of a Part 70 permit, or
- d. Any combination of these actions.

The conditions in this Part 70 permit are enforceable by EPA and citizens under the Clean Air Act except for the State-only enforceable conditions.

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

Under Environment Article Section 2-609, Annotated Code of Maryland, the Department may seek immediate injunctive relief against a person who violates this permit in such a manner as to cause a threat to human health or the environment.

25. CREDIBLE EVIDENCE

Nothing in this permit shall be interpreted to preclude the use of credible evidence to demonstrate noncompliance with any term of this permit.

26. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE

[COMAR 26.11.03.06E(2)]

The need to halt or reduce activity in order to comply with the conditions of this permit may not be used as a defense in an enforcement action.

27. CIRCUMVENTION

[COMAR 26.11.01.06]

The Permittee may not install or use any article, machine, equipment or other contrivance, the use of which, without resulting in a reduction in the total weight of emissions, conceals or dilutes emissions which would otherwise constitute a violation of any applicable air pollution control regulation.

28. PERMIT SHIELD

[COMAR 26.11.03.23]

A permit shield as described in COMAR 26.11.03.23 shall apply only to terms and conditions in this Part 70 permit that have been specifically identified as covered by the permit shield. Neither this permit nor COMAR 26.11.03.23 alters the following:

- a. The emergency order provisions in Section 303 of the Clean Air Act, including the authority of EPA under that section;

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- b. The liability of the Permittee for a violation of an applicable requirement of the Clean Air Act before or when this permit is issued or for a violation that continues after issuance;
- c. The requirements of the Acid Rain Program, consistent with Section 408(a) of the Clean Air Act;
- d. The ability of the Department or EPA to obtain information from a source pursuant to Maryland law and Section 114 of the Clean Air Act; or
- e. The authority of the Department to enforce an applicable requirement of the State air pollution control law that is not an applicable requirement of the Clean Air Act.

29. ALTERNATE OPERATING SCENARIOS

[COMAR 26.11.03.06A(9)]

For all alternate operating scenarios approved by the Department and contained within this permit, the Permittee, while changing from one approved scenario to another, shall contemporaneously record in a log maintained at the facility each scenario under which the emissions unit is operating and the date and time the scenario started and ended.

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

SECTION III PLANT WIDE CONDITIONS

1. PARTICULATE MATTER FROM CONSTRUCTION AND DEMOLITION

[COMAR 26.11.06.03D]

The Permittee shall not cause or permit any building, its appurtenances, or a road to be used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

2. OPEN BURNING

[COMAR 26.11.07]

Except as provided in COMAR 26.11.07.04, the Permittee shall not cause or permit an open fire from June 1 through August 31 of any calendar year. Prior to any open burning, the Permittee shall request and receive approval from the Department.

3. AIR POLLUTION EPISODE

[COMAR 26.11.05.04]

When requested by the Department, the Permittee shall prepare in writing standby emissions reduction plans, consistent with good industrial practice and safe operating procedures, for reducing emissions creating air pollution during periods of Alert, Warning, and Emergency of an air pollution episode.

4. REPORT OF EXCESS EMISSIONS AND DEVIATIONS

[COMAR 26.11.01.07] and [COMAR 26.11.03.06C(7)]

The Permittee shall comply with the following conditions for occurrences of excess emissions and deviations from requirements of this permit, including those in Section VI – State-only Enforceable Conditions:

- a. Report any deviation from permit requirements that could endanger human health or the environment, by orally notifying the Department immediately upon discovery of the deviation;

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- b. Promptly report all occurrences of excess emissions that are expected to last for one hour or longer by orally notifying the Department of the onset and termination of the occurrence;
- c. When requested by the Department the Permittee shall report all deviations from permit conditions, including those attributed to malfunctions as defined in COMAR 26.11.01.07A, within 5 days of the request by submitting a written description of the deviation to the Department. The written report shall include the cause, dates and times of the onset and termination of the deviation, and an account of all actions planned or taken to reduce, eliminate, and prevent recurrence of the deviation;
- d. The Permittee shall submit to the Department semi-annual monitoring reports that confirm that all required monitoring was performed, and that provide accounts of all deviations from permit requirements that occurred during the reporting periods. Reporting periods shall be January 1 through June 30 and July 1 through December 31, and reports shall be submitted within 30 days of the end of each reporting period. Each account of deviation shall include a description of the deviation, the dates and times of onset and termination, identification of the person who observed or discovered the deviation, causes and corrective actions taken, and actions taken to prevent recurrence. If no deviations from permit conditions occurred during a reporting period, the Permittee shall submit a written report that so states.
- e. When requested by the Department, the Permittee shall submit a written report to the Department within 10 days of receiving the request concerning an occurrence of excess emissions. The report shall contain the information required in COMAR 26.11.01.07D(2).

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

5. ACCIDENTAL RELEASE PROVISIONS

[COMAR 26.11.03.03B(23)] and [40 CFR 68]

Should the Permittee become subject to 40 CFR 68 during the term of this permit, the Permittee shall submit risk management plans by the date specified in 40 CFR 68.150 and shall certify compliance with the requirements of 40 CFR 68 as part of the annual compliance certification as required by 40 CFR 70.

The Permittee shall initiate a permit revision or reopening according to the procedures of 40 CFR 70.7 to incorporate appropriate permit conditions into the Permittee's Part 70 permit.

6. GENERAL TESTING REQUIREMENTS

[COMAR 26.11.01.04]

The Department may require the Permittee to conduct, or have conducted, testing to determine compliance with this Part 70 permit. The Department, at its option, may witness or conduct these tests. This testing shall be done at a reasonable time, and all information gathered during a testing operation shall be provided to the Department.

7. EMISSIONS TEST METHODS

[COMAR 26.11.01.04]

Compliance with the emissions standards and limitations in this Part 70 permit shall be determined by the test methods designated and described below or other test methods submitted to and approved by the Department.

Reference documents of the test methods approved by the Department include the following:

- a. 40 CFR 60, appendix A
- b. 40 CFR 51, appendix M

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- c. The Department's Technical Memorandum 91-01 "Test Methods and Equipment Specifications for Stationary Sources", (January 1991), as amended through Supplement 3, (October 1, 1997)

8. EMISSIONS CERTIFICATION REPORT

**[COMAR 26.11.01.05-1] and [COMAR 26.11.02.19C] and
[COMAR 26.11.02.19D]**

The Permittee shall certify actual annual emissions of regulated pollutants from the facility on a calendar year basis.

- a. The certification shall be on forms obtained from the Department and submitted to the Department not later than April 1 of the year following the year for which the certification is required;
- b. The individual making the certification shall certify that the information is accurate to the individual's best knowledge. The individual shall be:
 - (1) Familiar with each source for which the certifications forms are submitted, and
 - (2) Responsible for the accuracy of the emissions information;
- c. The Permittee shall maintain records necessary to support the emissions certification including the following information if applicable:
 - (1) The total amount of actual emissions of each regulated pollutant and the total of all regulated pollutants;
 - (2) An explanation of the methods used to quantify the emissions and the operating schedules and production data that were used to determine emissions, including significant assumptions made;
 - (3) Amounts, types and analyses of all fuels used;
 - (4) Emissions data from continuous emissions monitors that are required by this permit, including monitor calibration and malfunction information;

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- (5) Identification, description, and use records of all air pollution control equipment and compliance monitoring equipment including:
 - (a) Significant maintenance performed,
 - (b) Malfunctions and downtime, and
 - (c) Episodes of reduced efficiency of all equipment;
- (6) Limitations on source operation or any work practice standards that significantly affect emissions; and
- (7) Other relevant information as required by the Department.

9. COMPLIANCE CERTIFICATION REPORT

[COMAR 26.11.03.06G(6) and (7)]

The Permittee shall submit to the Department and EPA Region III a report certifying compliance with each term of this Part 70 permit including each applicable standard, emissions limitation, and work practice for the previous calendar year by April 1 of each year.

- a. The compliance certification shall include:
 - (1) The identification of each term or condition of this permit which is the basis of the certification;
 - (2) The compliance status;
 - (3) Whether the compliance was continuous or intermittent;
 - (4) The methods used for determining the compliance status of each source, currently and over the reporting period; and
 - (5) Any other information required to be reported to the Department that is necessary to determine the compliance status of the Permittee with this permit.
- b. The Permittee shall submit the compliance certification reports to the Department and EPA simultaneously.

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

10. CERTIFICATION BY RESPONSIBLE OFFICIAL

[COMAR 26.11.02.02F]

All application forms, reports, and compliance certifications submitted pursuant to this permit shall be certified by a responsible official as to truth, accuracy, and completeness. The Permittee shall expeditiously notify the Department of an appointment of a new responsible official.

The certification shall be in the following form:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

11. SAMPLING AND EMISSIONS TESTING RECORD KEEPING

[COMAR 26.11.03.06C(5)]

The Permittee shall gather and retain the following information when sampling and testing for compliance demonstrations:

- a. The location as specified in this permit, and the date and time that samples and measurements are taken;
- b. All pertinent operating conditions existing at the time that samples and measurements are taken;
- c. The date that each analysis of a sample or emissions test is performed and the name of the person taking the sample or performing the emissions test;
- d. The identity of the Permittee, individual, or other entity that performed the analysis;
- e. The analytical techniques and methods used; and

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

- f. The results of each analysis.

12. GENERAL RECORDKEEPING

[COMAR 26.11.03.06C(6)]

The Permittee shall retain records of all monitoring data and information that support the compliance certification for a period of five (5) years from the date that the monitoring, sample measurement, application, report or emissions test was completed or submitted to the Department.

These records and support information shall include:

- a. All calibration and maintenance records;
- b. All original data collected from continuous monitoring instrumentation;
- c. Records which support the annual emissions certification; and
- d. Copies of all reports required by this permit.

13. GENERAL CONFORMITY

[COMAR 26.11.26.09]

The Permittee shall comply with the general conformity requirements of 40 CFR 93, Subpart B and COMAR 26.11.26.09.

14. ASBESTOS PROVISIONS

[40 CFR 61, Subpart M]

The Permittee shall comply with 40 CFR 61, Subpart M when conducting any renovation or demolition activities at the facility.

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

15. OZONE DEPLETING REGULATIONS

[40 CFR 82, Subpart F]

The Permittee shall comply with the standards for recycling and emissions reduction pursuant to 40 CFR 82, Subpart F, except as provided for MVACs in subpart B:

- a. Persons opening appliances for maintenance, service, repair, or disposal shall comply with the prohibitions and required practices pursuant to 40 CFR 82.154 and 82.156.
- b. Equipment used during the maintenance, service, repair or disposal of appliances shall comply with the standards for recycling and recovery equipment pursuant to 40 CFR 82.158.
- c. Persons performing maintenance, service, repairs or disposal of appliances shall be certified by an approved technician certification program pursuant to 40 CFR 82.161.
- d. Persons performing maintenance, service, repairs or disposal of appliances shall certify with the Administrator pursuant to 40 CFR 82.162.
- e. Persons disposing of small appliances, MVACS, and MVAC-like appliances as defined in 40 CFR 82.152, shall comply with record keeping requirements pursuant to 40 CFR 82.166.
- f. Persons owning commercial or industrial process refrigeration equipment shall comply with the leak repair requirements pursuant to 40 CFR 82.156.
- g. Owners/operators of appliances normally containing 50 or more pounds of refrigerant shall keep records of refrigerant purchased and added to such appliances pursuant to 40 CFR 82.166.

16. ACID RAIN PERMIT

Not applicable

WHEELABRATOR BALTIMORE, L.P.**1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886****SECTION IV PLANT SPECIFIC CONDITIONS**

This section provides tables that include the emissions standards, emissions limitations, and work practices applicable to each emissions unit located at this facility. The Permittee shall comply with all applicable emissions standards, emissions limitations and work practices included herein.

The tables also include testing, monitoring, record keeping and reporting requirements specific to each emissions unit. In addition to the requirements included here in **Section IV**, the Permittee is also subject to the general testing, monitoring, record keeping and reporting requirements included in **Section III – Plant Wide Conditions** of this permit.

Unless otherwise provided in the specific requirements for an emissions unit, the Permittee shall maintain at the facility for at least five (5) years, and shall make available to the Department upon request, all records that the Permittee is required under this section to establish. **[Authority: COMAR 26.11.03.06C(5)(g)]**

Table IV – 1	
1.0	<u>Emissions Unit Number(s) 1-3</u> - Registration No. 2-0255, 2-0256, and 2-0257 Three (3) identical waterwall municipal waste combustors each rated at 750 tons per day. Each unit is equipped with the following air pollution control devices: a Selective Non-Catalytic Reduction (SNCR) system for NO _x removal; a “slaked lime” spray dryer absorber (SDA) system for acid gas removal; an activated carbon injection system for the removal of mercury and dioxins/furans; a four field electrostatic precipitator for control of particulate matter and metals in the flue gas.
1.1	<u>Applicable Standards/Limits:</u> A. Existing Large MWC Emission Limits <ol style="list-style-type: none"> The Permittee shall comply with the existing Large MWC emissions limits and operational standards found in Table IV-1A that follows this table. [Authority: COMAR 26.11.08.08A(1)]. The standards in COMAR 26.11.08.08A(2) apply at all times except during periods of startup, shutdown, or malfunction as provided in 40 CFR §60.58b(a) [Authority: COMAR 26.11.08.08A(3)]. <ol style="list-style-type: none"> Duration of start-up, shutdown, or malfunction period are limited to 3 hours per occurrence, except for carbon monoxide, where the malfunction period may be extended to 15 hours when loss of boiler water level control (e.g., tube failure) or combustion air control (e.g. loss of combustion air fan, induced draft fan, combustion grate bar failure) is determined to be a malfunction [Authority: COMAR 26.11.08.08A(3), 40 CFR §60.58b(a)(1)(i) and (1)(iii)];

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1

- (b) The start-up period commences when the facility begins the continuous burning of municipal solid waste and does not include any warm-up period when the facility is combusting a fossil fuel or any other auxiliary fuel, and no municipal waste is being combusted **[Authority: COMAR 26.11.08.08A(3) and 40 CFR §60.58b(a)(1)(i)].**
- (c) To allow for waste to be emptied from the throat of the feeding chute, the shutdown period shall begin 30 minutes after the chute to the loading hopper of the combustion train is closed **[Authority: COMAR 26.11.02.02H].**

Incinerator Operator Training

B. COMAR 26.11.08.09

1. **COMAR 26.11.08.09B** Certification Requirement—A person may not operate or allow an incinerator to be operated unless the owner certifies to the Department on a form approved by the Department that the incinerator operator:
 - (a) Has completed an initial training course approved by the Department which meets the requirements of COMAR 26.11.08.09D; and
 - (b) Annually, after initial certification, completes a review course approved by the Department. **[Authority: COMAR 26.11.08.09B(1) & (2)]**
2. **COMAR 26.11.08.09D(1)** For any incinerator operator who operates a municipal waste combustor (MWC), the training course shall address the following subjects in detail:
 - (a) Overall operation, maintenance, and performance of the facility;
 - (b) Start-up and shut-down of the facility;
 - (c) Applicable federal, State, and local environmental regulations, and sanctions for violations;
 - (d) Policies and procedures for proper and safe plant operation;
 - (e) Maintaining records of facility operations;
 - (f) Actions to correct upsets or emergencies;
 - (g) Control room operations;
 - (h) Ash handling and disposal;

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1

	<p>(i) Combustion theory;</p> <p>(j) Air pollution control technology;</p> <p>(k) Continuous emission monitors and their calibration, and quality assurance requirements [Authority: COMAR 26.11.08.09D(1)].</p> <p>3. For the operator of any municipal waste combustor (MWC), completing a training course means:</p> <p style="padding-left: 40px;">(a) Completing an initial training course approved by the Department of at least 5 days (40 hours) duration; and</p> <p style="padding-left: 40px;">(b) Passing a written test approved by the Department. [Authority: COMAR 26.11.08.09D(2)]</p> <p>4. The certified operator shall, after initial training, complete and pass an annual review course approved by the Department of at least 1-day (8 hours) duration [Authority: COMAR 26.11.08.09D(4)].</p> <p>5. Operations and Maintenance Manual.</p> <p style="padding-left: 40px;">(a) The owner or operator of a large MWC shall develop and maintain on-site, an operations and maintenance manual that contains, at a minimum, all of the course content requirements in COMAR 26.11.08.09D(1) and in 40 CFR §60.54b(e).</p> <p style="padding-left: 40px;">(b) The operations and maintenance manual shall be updated annually. [Authority: COMAR 26.11.08.09H(1)&(2)]</p> <p>C. PSD Approval 83-01 (Feb. 21, 1986)</p> <p>1. The Permittee shall not exceed the facility-wide (MWC Units #1, 2 & 3) emissions limitations specified below [Authority: PSD Approval 83-01, Part I, Condition (1)]:</p> <p style="padding-left: 40px;">SO₂: 375 lbs./hr. and 1,478 tons/year CO: 121 lbs./hr. and 477 tons/year NO_x: 298 lbs./hr. and 1,176 tons/year Fluorides: 12 lbs./hr. and 47 tons/year</p> <p style="padding-left: 40px;">(a) Compliance with the facility wide lbs./hr PSD emission limit shall be determined as follows [Authority: COMAR 26.11.02.02H]:</p> <ul style="list-style-type: none"> • SO₂, CO and NO_x: 8 hour block average. A valid facility eight hour block average is based on a minimum of 6 hours of total facility hourly data.
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WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1	
	<ul style="list-style-type: none"> • Fluorides: the average of three test runs using EPA Reference Method 13B, 26A, or equivalent • All emissions associated with startup, shutdown, and malfunction episodes are included in the pounds per hour standard <p>(b) The tons per year PSD emission limits are a 12-month composite (rolling monthly) and includes all emissions associated with startup, shutdown, and malfunction episodes [Authority: COMAR 26.11.02.02H].</p> <p>2. The Permittee shall develop and submit to the Department for approval, procedures to ensure that only acceptable wastes as defined in Appendix A of the PSD application are incinerated [Authority: PSD Approval 83-01 Part I, Condition (4)].</p> <p>3. The start-up fuel for the incinerator shall be natural gas. The incinerator shall not exceed a fuel consumption rate of 2.7×10^7 ft.³ of natural gas in any one-year period [Authority: PSD Approval 83-01 Part I, Condition (5)].</p> <p>D. NSINA Approval No. 83-01 (Feb. 21, 1986) Each furnace shall be equipped with electrostatic precipitators that shall be operated such that the particulate grain loading at the outlet ends of the ESP complies with the 0.017 gr/dscf particulate matter emission standard for large MWCs [Authority: NSINA Approval 83-01 Condition (3)].</p> <p>Note: compliance with the existing Large MWC particulate emission limit of 25 mg/dscm (0.01093 gr/dscf) and testing, recordkeeping and monitoring requirements under COMAR 26.11.08.08A(2) assures compliance with the NSINA limit.</p> <p>E. Visible Emissions No emissions, other than water in an uncombined form, visible to human observers. The no visible emission requirement does not apply to emissions during start-up, or adjustments, or occasional cleaning of control equipment, if: (1) the visible emissions are not greater than 40 percent opacity; and (2) the visible emissions do not occur for more than 6 consecutive minutes in any 60 minute period [Authority: COMAR 26.11.08.04B&C].</p>
1.2	<p><u>Testing Requirements:</u></p> <p>A. Existing Large MWC Emission Limits The Permittee shall comply with the testing requirements for the emissions and operational parameters in accordance with the test methods and specified frequencies referenced in Table IV-1A for existing large MWCs no less than 9 months and no more than 15 months following the previous test [Authority: COMAR 26.11.08.08A(2)].</p>

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1	
	<p>B. Incinerator Operator Training No emissions testing requirements under this paragraph.</p> <p>C. PSD Approval 83-01 The Permittee shall conduct annual testing for fluorides no less than 9 months and no more than 15 months following the previous test using EPA Reference Method 13B or 26A or equivalent approved by the Department. Testing may be combined with the existing large MWC annual HCl testing. [Authority COMAR 26.11.03.06C(3)].</p> <p>D. NSINA Approval 83-01 The Permittee shall perform annual testing for particulate emissions in accordance with the standards for existing large MWCs as provided in COMAR 26.11.08.08A(2) [Authority: COMAR 26.11.03.06C(3)]</p> <p>Note: The NSINA particulate emissions standard is subsumed by the particulate emissions standard of COMAR 26.11.08.08A (2).</p> <p>E. Visible Emissions - See § 1.3 E below (Monitoring Requirements).</p>
1.3	<p><u>Monitoring Requirements:</u></p> <p>A. Existing Large MWC Emission Limits</p> <ol style="list-style-type: none"> 1. The Permittee shall [Authority: COMAR 26.11.01.11B(3) and COMAR 26.11.08.08B(1)]: <ol style="list-style-type: none"> (a) Install, calibrate, operate and maintain continuous emission monitors for carbon monoxide, oxygen, opacity, oxides of nitrogen, and sulfur dioxide; (b) Locate monitors downstream of the final air pollution control device to measure concentrations of oxygen, oxides of nitrogen, sulfur dioxide, and opacity of the exhaust gases; and (c) Install, operate, and maintain at a minimum, one temperature monitor to measure the temperature of the flue gas as it enters the particulate matter control device. 2. If the percent removal option is to be used to show compliance with regulation COMAR 26.11.08.08B (1)(b), sulfur dioxide and oxygen monitors shall also be located upstream of the pollution control device. Monitors shall be located at the combustor outlet exit to measure concentrations of carbon monoxide [Authority: COMAR 26.11.08.08B(2)].

WHEELABRATOR BALTIMORE, L.P.**1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886****Table IV – 1**

Note: SO₂ and O₂ are measured upstream of the air pollution control device to calculate % removal and CO is measured downstream of air pollution control devices as approved per COMAR 26.11.08.08(B)(4)

3. The monitors required by COMAR 26.11.08.08B(1)(a) and (b) of this regulation shall meet the installation, certification, reporting, record-keeping, and other requirements of COMAR 26.11.01.10, performance specifications in 40 CFR Part 60, Appendix B, the quality assurance procedures in 40 CFR Part 60, Appendix F, specifications in 40 CFR Sec. 60.58b, and the specifications in the Department's Air and Radiation Management Administration Technical memorandum 90-01 "Continuous Emission Monitoring (CEM) Policies and Procedures", which is incorporated by reference in COMAR 26.11.01.10E. **[Authority: COMAR 26.11.08.08B(3)].**
4. A person shall apply for and receive written approval from the Department before installing any of the monitors required in this chapter **[Authority: COMAR 26.11.08.08(B)(4)].**

Carbon Feed Rate Monitoring Requirements

5. During the performance tests for dioxins/furans and mercury, as applicable, the owner or operator shall estimate an average carbon mass feed rate based on carbon injection system operating parameters such as the screw feeder speed, hopper volume, hopper refill frequency, or other parameters appropriate to the feed system being employed **[Authority: 40 CFR § 60.58b(m)(1)].**
6. An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during the initial performance tests for mercury emissions and each subsequent performance test for mercury emissions. **[Authority: 40 CFR §60.58b(m)(1)(i)].**
7. An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during the initial performance tests for dioxin/furan emissions and each subsequent performance test for dioxin/furan emissions. If a subsequent dioxin/furan performance test is being performed on only one affected facility at the MWC plant, the owner or operator may elect to apply the same estimated average carbon feed rate from the tested facility for all the similarly designed and operated facilities at the MWC plant **[Authority: 40 CFR § 60.58b(m)(1)(ii)].**
8. During operation of the affected facility, the carbon injection system operating parameter(s) that are the primary indicator(s) of the carbon mass feed rate shall be averaged over a block 8-hour period and the 8-hour block average must exceed or equal the level(s) documented during the performance tests specified under 40 CFR 60.58b(m)(1)(i)&(ii) except as specified in §§(m)(2)(i) and §§(m)(2)(ii) **[Authority: 40 CFR**

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1	
	<p>§60.58b(m)(2)].</p> <p>9. During the annual dioxin/furan or mercury performance test and the 2 weeks preceding the annual performance test, no limit is applicable for the average mass carbon feed rate if the provisions of §§(m)(2)(ii) are met [Authority: 40 CFR 60.58b(m)(2)(i)].</p> <p>10. The limit for average mass carbon feed rate may be waived in accordance with permission granted by the Administer for the purpose of evaluating system performance, testing new technology or control technology, diagnostic testing or related activities [Authority: 40 CFR § 60.58b(m)(2)(ii)].</p> <p>B. Incinerator Operator Training No emissions monitoring requirements.</p> <p>C. PSD Approval 83-01</p> <p>1. The Permittee shall monitor natural gas fuel usage to ensure compliance with the PSD limitation. Total facility fuel usage shall be calculated on a 12 month rolling average basis. [Authority: COMAR 26.11.03.06C(3)].</p> <p>2. The Permittee shall continuously monitor pollutants and other parameters necessary to calculate the pounds per hour PSD limits. The methodology for calculating the lbs/hr emissions shall be as follows [Authority: COMAR 26.11.03.06C(3)]:</p> <p>Average lbs/hour = ppm X AFSF factor (DSCFH/Klbs) X actual steam flow (Klbs/hr) X Conversion Factor, where:</p> <ul style="list-style-type: none"> • ppm = CEM hourly average ppmdv for CO₂, NO_x, and SO₂ • Stack test air flow to steam flow factor (AFSF) = Dry standard cubic foot per hour air flow per thousand lbs steam (DSCFH/Klb) • Actual steam flow (Klbs/hour) • Conversion Factor = From 40 CFR Part 60 Appendix B Method 19 (procedures for converting ppm to lbs/dscf) <p style="margin-left: 40px;">SO₂ = 1.66E-07</p> <p style="margin-left: 40px;">NO_x = 1.194E-07</p> <p style="margin-left: 40px;">CO = 7.27E-08</p> <p>D. NSINA Approval 83-01 None – Particulate emissions limit has been subsumed under existing large MWC particulate limit in COMAR 26.11.08.08A(2).</p>

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1	
	<p>E. Visible Emissions Periodic monitoring shall be done using EPA Reference Method 9 observations on a monthly basis. Observation shall be conducted over a 15-minute period. [Authority: COMAR 26.11.03.06C(3)]</p>
1.4	<p><u>Record Keeping Requirements:</u></p> <p>A. Existing Large MWC Emission Limits</p> <ol style="list-style-type: none"> 1. The Permittee shall maintain records in accordance with 40 CFR § 60.59(b) of Subpart Eb, as applicable, except for the siting requirements under §§ 60.59b(a), (b)(5), and (d)(11) of 40 CFR 60 Subpart Eb [Authority: COMAR 26.11.08.08C(1)]. 2. Continuous emissions monitoring data reduction and data availability shall be in accordance with COMAR 26.11.01.10. If there is any inconsistency between COMAR 26.11.01.10 and 40 CFR Part 60, the requirements of 40 CFR Part 60 govern [Authority: COMAR 26.11.08.08C(2)]. 3. The Permittee shall estimate the total carbon usage of the plant for each calendar quarter by two independent methods as stated in conditions 4 and 5 below [Authority: 40 CFR § 60.58b(m)(3)]. 4. The Permittee shall estimate total carbon usage at the plant by maintaining records for of the weight of carbon delivered to the plant on a quarterly basis [Authority: 40 CFR § 60.58b(m)(3)(i)]. 5. The Permittee shall estimate the average carbon mass feed rate for each hour of operation for each affected facility based on the carbon feed system parameters specified during performance testing. The Permittee shall sum the results for all affected facilities at the plant for the total number of hours of operation during the calendar quarter [Authority: 40 CFR §60.58b(m)(3)(ii)]. 6. The Permittee shall retain records of quarterly carbon usage using the methods described above for a period of 5 years and make that data available to the Department upon request [Authority: COMAR 26.11.03.06C]. <p>B. Incinerator Operator Training The Permittee shall maintain a copy of a certificate issued by the Department to each incinerator operator who has satisfactorily completed an approved incinerator training course and has passed the exit examination.[Authority: COMAR 26.11.08.09 and COMAR 26.11.03.06C(3)]</p>

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1	
	<p>C. PSD Approval 83-01</p> <ol style="list-style-type: none"> 1. The Permittee shall retain records of all emissions data and operating parameters and fuel use, as required by the terms of PSD Approval 83-01 for a period of five (5) years [Authority: PSD Approval 83-01 Part II Condition (5) and COMAR 26.11.03.06C]. 2. The Permittee shall maintain records of the calculated pounds per hour and the tons per years for a period of 5 years [Authority: COMAR 26.11.03.06C]. 3. The Permittee shall maintain a record of the results of the annual stack test for fluorides for a period of 5 years [Authority: COMAR 26.11.03.06C]. <p>D. NSINA Approval 83-01 None – Particulate emissions limit has been subsumed under existing large MWC particulate limit in COMAR 26.11.08.08A(2).</p> <p>E. Visible Emission Limit The Permittee shall maintain records of all Method 9 observation taken to demonstrate compliance with COMAR 26.11.08.04, on-site for a period of at least five (5) years. [Authority: COMAR 26.11.03.06]</p>
1.5	<p><u>Reporting Requirements:</u></p> <p>A. Existing Large MWC Emission Limits</p> <ol style="list-style-type: none"> 1. A person who owns an existing MWC subject to this regulation shall report and maintain records in accordance with 40 CFR Sec. 60.59(b) of Subpart Eb, as applicable, except for the siting requirements under Sec. 60.59b(a), (b)(5), and (d)(11) of 40 CFR 60 Subpart Eb [Authority: COMAR 26.11.08.08C(1)]. 2. Continuous emissions monitoring data reduction and data availability shall be as prescribed in COMAR 26.11.01.10. If there is any inconsistency between COMAR 26.11.01.10 and 40 CFR Part 60, the requirements of 40 CFR Part 60 govern [Authority: COMAR 26.11.08.08C(2)]. 3. The Permittee shall submit a quarterly CEM/COM and parameter monitoring data excess emission report to the Department not later than 30-days following each calendar quarter. At a minimum, the report shall include [Authority: COMAR 26.11.01.10D(2), COMAR 26.11.01.11E(2), and COMAR 26.11.03.06C]:

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1	
	<p>(a) A listing of the time period, magnitude, and cause of all emissions that exceeded the applicable emission or parameter monitoring standard for the respective emission/parameter averaging time,</p> <p>(b) A listing of all excluded data and the reason for excluding the data,</p> <p>(c) A listing of all the 1-hour average emission concentrations, 1-hour percent reduction data, as applicable, and 1-hour parameter monitoring data for any day that there was either an exceedance of an emission or parameter standard or for any day that the Permittee excluded data. The listing is only required for the respective pollutant or parameter that there was an exceedance for or Permittee excluded data,</p> <p>(d) A listing of time periods (including invalid hourly averages or invalid 6 minute averages for COMs) and cause of all CEM/COM and parameter monitor downtimes,</p> <p>(e) A listing of installation (MWC units) downtime,</p> <p>(f) Daily calibration activities when results exceeded the daily calibration drift limits and the results of all audits performed during the quarter, and</p> <p>(g) A summary of the quarterly totals of excess emissions, installation downtimes, and monitor downtimes</p> <p>4. A person who owns an existing MWC subject to this regulation shall submit to the Department semi-annual reports that includes the information specified in §§60.59b(g)(1) through (g)(5) of Subpart Eb, as applicable, by August 1st and February 1st for the respective reporting periods [Authority: 40 CFR § 60.59b(g)].</p> <p>5. A person who owns an existing MWC subject to this regulation shall submit to the Department semi-annual reports that includes the information specified in §§(h)(1) through §§(h)(5) , as applicable, for any recorded pollutant or parameter that does not comply with the pollutant or parameter limit specified under this subpart by August 1st and February 1st for the respective reporting periods [Authority: 40 CFR §60.59b(h)].</p> <p>B. Incinerator Operator Training</p> <p>Record and Notification. Within 10 days after training is complete, the person who conducts an approved incinerator operator training course shall:</p> <p>1. Notify the Department in writing, of the names, employee identification numbers, and employer of those incinerator operators who have successfully completed the training course; and</p>

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1

2. Provide a certificate to each incinerator operator who has satisfactorily completed the training course and has passed the required examination [**Authority:** COMAR 26.11.08.09G(1) & (2)].

C. PSD Approval 83-01

1. The Permittee shall submit the results of annual fluoride tests along with the other annual emission test results that satisfy COMAR 26.11.08.08C(1) [**Authority:** COMAR 26.11.03.06C].
2. The Permittee shall submit a quarterly excess emission report to the Department not later than 30-days following each calendar quarter. At a minimum, the report shall include [**Authority:** COMAR 26.11.03.06C]:
 - (a) A listing of the time period, magnitude, and cause of all emissions that exceeded the applicable emission standard for the respective emission averaging time along with causes and corrective actions, and
 - (b) A listing of all of the 12-month rolling emissions for SO₂, CO, NO_x for the quarter
3. If, for any reason, the Permittee does not comply or will not be able to comply with the emission limitations or other conditions specified in this Approval, the Permittee shall provide the Department with the following information as soon as possible, but no later than five (5) days after such conditions become known to the Company [**Authority:** PSD Approval 83-01 Part II, Condition (6)]:
 - (a) Description of non-compliance;
 - (b) Cause of non-compliance;
 - (c) Anticipated time the non-compliance is expected to continue or, if corrected, the actual duration of non-compliance;
 - (d) Steps taken to minimize or eliminate non-compliance; and
 - (e) Steps taken to prevent recurrence of the non-compliance.
4. Submittal of this report does not constitute a waiver of the emission limitations or other conditions of this Approval nor does it in anyway restrict the Department's authority to enforce the conditions. Note: This report applies to noncompliance with PSD Approval 83-01 emission limits and other PSD conditions only.

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV – 1	
	<p>5. In the event of any change in control of ownership, the Permittee shall notify the succeeding owner of the existence of this Approval by letter and send a copy of that letter to the Department [Authority: PSD Approval 83-01 Part II-Condition (9)].</p> <p>D. NSINA Approval 83-01 None – Particulate emissions limit has been subsumed under existing large MWC particulate limit in COMAR 26.11.08.08A(2).</p> <p>E. Visible Emission Limit The Permittee shall report deviations in accordance with Section III, Plant Wide Conditions, Item 4 Report of Excess Emissions and Deviations.</p>

A Permit Shield shall cover the applicable requirements identified for the emission units listed in the table above. Permit shields are granted on an emission unit by emission unit basis.

WHEELABRATOR BALTIMORE, L.P.**1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886****Emission Standards, Performance and Compliance Testing Requirements for Emissions Units 1-3 [Authority: COMAR 26.11.08.08A(2)]**

Table IV-1A		
<i>Pollutant/ Parameter</i>	<i>Emission Standard for a Large MWC</i> * adjusted to 7 percent oxygen on dry basis.	<i>Performance and Compliance Test Requirements</i>
Opacity	10 percent opacity with Continuous Opacity Monitoring System (COMS) based on six minute block averages.	EPA Reference Method 9 and COMS. Applicable test procedures and methods as specified in 40 CFR §60.58b(c). Quality assurance and quality control requirements are as in Technical Memorandum 90-01. In case of inconsistencies in data or conflicting data method 9 results will determine compliance.
Particulate Matter	25 mg/dscm* (0.01093 gr/dscf)*	EPA Reference Method 5. Annual test, methods and procedures as specified in 40 CFR §60.58b(c)
SO ₂ (Sulfur Dioxide)	29 ppmv* - 24 hr. geometric mean or 75 percent reduction, whichever is less restrictive	CEMS. Applicable test procedures and methods as specified in 40 CFR §60.58b(e).
NO _x (Oxides of Nitrogen)	205 ppmv* - 24 hr. arithmetic for Mass burn waterwall MWC.	CEMS. Applicable test procedures and methods as provided in 40 CFR §60.58b(h).
Carbon Monoxide	100 ppmv* - 4 hr. block avg.	CEMS. Methods and procedures as specified in 40 CFR §60.58b(b) and 40 CFR §60.58b(i).
HCl (Hydrogen Chloride)	29 ppmv* or at least 95 percent removal efficiency whichever is less restrictive.	EPA Reference Method 26 or 26A. Annual test except as provided in 40 CFR §60.58b(f). Applicable test procedures and methods as provided in 40 CFR §60.58b(f).
Dioxins /Furans	35 ng/dscm* (total mass) for ESP based control device	EPA Reference Method 23. Annual test except as provided in 40 CFR §60.58b(g) (5) (iii) and 40 CFR §60.38b (b). Applicable test procedures and methods as specified in 40 CFR §60.58b(g).

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table IV-1A		
<i>Pollutant/ Parameter</i>	<i>Emission Standard for a Large MWC</i> * adjusted to 7 percent oxygen on dry basis.	<i>Performance and Compliance Test Requirements</i>
Cd (Cadmium)	35 µg/dscm*	EPA Reference Method 29. Annual test except as provided in 40 CFR §60.58b(d). Applicable test procedures and methods as specified in 40 CFR 60.58b(d).
Pb (Lead)	400 µg/dscm*	EPA Reference Method 29. Annual test except as provided in 40 CFR §60.58b(d). Applicable test procedures and methods as specified in 40 CFR §60.58b(d).
Hg (Mercury)	50 µg/dscm* or 85% reduction by weight applies if less restrictive than the above.	EPA Reference Method 29. Annual test except as provided in 40 CFR §60.58b(d) and (m). Applicable test procedures and methods as specified in 40 CFR §60.58b(d).
Load	Not to exceed 110 percent of maximum load during most recent dioxin/furan performance test during which compliance with the dioxin/furan emission limit is achieved.	Continuous monitoring – 4 hr. block arithmetic average steam load. Applicable test procedures and methods as provided in 40 CFR §60.58b(i)(6) and (8).
Temperature	The maximum particulate matter control device inlet temperature must not exceed by more than 17 degrees Celsius the temperature during the most recent dioxin/furan test demonstrating compliance.	Continuous monitoring. The temperature shall be calculated in 4-hr. block arithmetic averages. Applicable test procedures and methods satisfying the requirements of 40 CFR §60.58b(i) (7) and (9) and exemptions in 40 CFR §60.53b(c).
Fugitive Ash Emissions	Visible emissions less than 5 percent of the observation period during ash transfer.	EPA Reference Method 9 observations as specified in 40 CFR §60.58b(k). Annual test. The emission limit excludes visible emissions discharged inside buildings or enclosures of ash conveying systems or during maintenance and repair of ash conveying systems as specified in 40 CFR §60.55b.

*Corrected to 7 percent oxygen on dry basis. If a CO₂ monitor is selected as the diluent monitor, it must meet the requirements of 40 CFR §60.58b(b)(6)

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

SECTION V INSIGNIFICANT ACTIVITIES

This section provides a list of insignificant emissions units that were reported in the Title V permit application. The applicable Clean Air Act requirements, if any, are listed below the insignificant activity.

- (1) No. 1 Stationary internal combustion engines with an output less than 500 brake horsepower (373 kilowatts) and which are not used to generate electricity for sale or for peak or load shaving:

Cummins N-855-F Diesel Engine (fire pump) rated at 240 BHP at 2100 RPM

Manufacture Date: 10-83

The installation is subject to the following requirements:

- (A) COMAR 26.11.09.05E(2), Emissions During Idle Mode: The Permittee may not cause or permit the discharge of emissions from any engine, operating at idle, greater than 10 percent opacity.
- (B) COMAR 26.11.09.05E(3), Emissions During Operating Mode: The Permittee may not cause or permit the discharge of emissions from any engine, operating at other than idle conditions, greater than 40 percent opacity.
- (C) Exceptions:
- (i) COMAR 26.11.09.05E(2) does not apply for a period of 2 consecutive minutes after a period of idling of 15 consecutive minutes for the purpose of clearing the exhaust system.
 - (ii) COMAR 26.11.09.05E(2) does not apply to emissions resulting directly from cold engine start-up and warm-up for the following maximum periods:
 - (a) Engines that are idled continuously when not in service: 30 minutes
 - (b) all other engines: 15 minutes.
 - (iii) COMAR 26.11.09.05E(2) & (3) do not apply while maintenance, repair or testing is being performed by qualified mechanics.

WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

(D) Requirements from 40 CFR part 63, subpart ZZZZ:

Operation and Maintenance Requirements

§ 63.6602 For an existing emergency stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions, the Permittee must comply with the requirements in item 1 of Table 2c to 40 CFR part 63, subpart ZZZZ as follows:

1. Change oil and filter every 500 hours of operation or annually, whichever comes first.
2. Inspect air cleaner every 1,000 hours of operation or annually, whichever comes first, and replace as necessary;
3. Inspect all hoses and belts every 500 hours of operation or annually, whichever comes first, and replace as necessary.
4. Minimize the engine's time spent at idle and minimize the engine's startup time at startup to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes.
5. The Permittee may petition the Administrator pursuant to the requirements of 40 CFR 63.6(g) for alternative work practices.

§ 63.6605(a) requires that the Permittee be in compliance with the applicable requirements in 40 CFR part 63, subpart ZZZZ at all times.

§ 63.6605(b) requires the Permittee to operate and maintain at all times any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the Permittee to make any further efforts to reduce emissions if levels required by this standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

§ 63.6625(e)(2) The Permittee must operate and maintain the stationary RICE and after-treatment control device (if any) according to the manufacturer's emission-related written instructions or develop your own maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions:

§ 63.6625(f) requires the Permittee to install a non-resettable hour meter if one is not already installed.

§ 63.6640(a) The Permittee must demonstrate continuous compliance with each applicable requirement in Table 2c to 40 CFR part 63, subpart ZZZZ according to methods specified in Table 6 to this subpart.

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

Table 6, item 9 (existing emergency stationary RICE ≤ 500 HP located at a major source of HAPs) specifies that the Permittee must operate and maintain the fire pump engine according to the manufacturer's emission-related operation and maintenance instructions or develop and follow the Permittee's own maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions.

§63.6640(f)(1) and (f)(2) provide that in order for the engine to be considered an emergency engine under 40 CFR part 63, subpart ZZZZ, any operation other than emergency operation and maintenance or testing, is prohibited. There is no time limit on the use of the engine in emergency situations. The engine may be operated for a maximum of 100 hours per calendar year for maintenance checks and readiness testing, provided that the tests are recommended by federal, state or local government, the manufacturer, the vendor, or the insurance company associated with the engine.

Notification and Reporting Requirements

No notification requirements under §63.6645 or reporting requirements under § 63.6650.

Record Keeping Requirements

§63.6655(e) Requires the Permittee to keep records of the maintenance conducted on the fire pump engine in order to demonstrate that the fire pump engine was operated and maintained according to the Permittee's own maintenance plan.

§63.6655 (f) Requires the Permittee to keep records of the hours of operation of the fire pump engine that is recorded through the non-resettable hour meter and to document how many hours were spent for emergency operation, including what classified the operation as emergency and how many hours were spent for non-emergency operation.

§63.6660 (a) The records must be in a form suitable and readily available for expeditious review according to § 63.10(b)(1).

§63.6660(b) As specified in § 63.10(b)(1), each record must be kept for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

§63.6660 (c) The Permittee must keep each record readily accessible in hard copy or electronic form for at least 5 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1).

- (2) ✓ Space heaters utilizing direct heat transfer and used solely for comfort heat;
- (3) No. Varies Unheated VOC dispensing containers or unheated VOC rinsing containers of 60 gallons (227 liters) capacity or less;

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

Parts cleaner and related containers are subject to COMAR 26.11.19.09D, which requires that the Permittee control emissions of volatile organic compounds (VOC) from cold degreasing operations by meeting the following requirements:

- (a) COMAR 26.11.19.09D(2)(b), which establishes that the Permittee shall not use any VOC degreasing material that exceeds a vapor pressure of 1 mm Hg at 20 °C;
 - (b) COMAR 26.11.19.09D(3)(a—d), which requires that the Permittee implement good operating practices designed to minimize spills and evaporation of VOC degreasing material. These practices, which shall be established in writing and displayed such that they are clearly visible to operators, shall include covers (including water covers), lids, or other methods of minimizing evaporative losses, and reducing the time and frequency during which parts are cleaned;
 - (c) COMAR 26.11.19.09D(4), which prohibits the use of any halogenated VOC for cold degreasing.
 - (d) The Permittee shall maintain on site for at least five (5) years, and shall make available to the Department upon request, the following records of operating data:
 - (i) Monthly records of the total VOC degreasing materials used; and
 - (ii) Written descriptions of good operating practices designed to minimize spills and evaporation of VOC degreasing materials.
- (4) ✓ Equipment for drilling, carving, cutting, routing, turning, sawing, planing, spindle sanding, or disc sanding of wood or wood products;
- (5) Containers, reservoirs, or tanks used exclusively for:
- (a) Dipping operations for applying coatings of natural or synthetic resins that contain no VOC;
 - (b) Dipping operations for coating objects with oils, waxes, or greases, and where no VOC is used;
 - (c) ✓ Storage of butane, propane, or liquefied petroleum, or natural gas;
 - (d) No. Varies Storage of lubricating oils;
 - (e) No. 4 Unheated storage of VOC with an initial boiling point of 300 °F (149 °C) or greater;
 - (f) No. 3 Storage of Numbers 1, 2, 4, 5, and 6 fuel oil and aviation jet engine fuel;
 - (g) No. Varies The storage of VOC normally used as solvents, diluents, thinners, inks, colorants, paints, lacquers, enamels, varnishes, liquid resins, or

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

other surface coatings and having individual capacities of 2,000 gallons (7.6 cubic meters) or less;

(6) ✓ First aid and emergency medical care provided at the facility, including related activities such as sterilization and medicine preparation used in support of a manufacturing or production process;

(7) ✓ Natural draft hoods or natural draft ventilators that exhaust air pollutants into the ambient air from manufacturing/industrial or commercial processes;

(8) ✓ Laboratory fume hoods and vents;

For the following, attach additional pages as necessary:

(9) Any other emissions unit, not listed in this section, with a potential to emit less than the "de minimis" levels listed in COMAR 26.11.02.10X (list and describe units):

No. 4 Storage of silos for lime and activate carbon used as reagents in air pollution control devices

No. 3 Wet scrubbers used for ventilation of ash handling area, ash load out, and ash trammels area.

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

SECTION VI STATE-ONLY ENFORCEABLE CONDITIONS

The Permittee is subject to the following State-only enforceable requirements:

A. Control of Nuisance Emissions

COMAR 26.11.06.08 and .09 which generally prohibit the discharge of emissions beyond the property line in such a manner that a nuisance or air pollution is created.

The refuse holding pit shall be maintained under negative pressure and the exhausted air shall be combined with the primary combustion air to minimize odors [Authority: NSINA Approval 83-01 Condition (5)]

B. Control of Air Toxics

COMAR 26.11.15.05 - New or Reconstructed Installations. A person may not construct, reconstruct, operate, or cause to be constructed, reconstructed, or operated, any new installation or source that will discharge a toxic air pollutant to the atmosphere without installing and operating T-BACT.

C. Control of Air Toxics Cont'd

COMAR 26.11.15.06 - Except as provided in §A(2) of this regulation, a person may not construct, modify, or operate, or cause to be constructed, modified, or operated, any new installation or source without first demonstrating to the satisfaction of the Department using procedures established in this chapter that total allowable emissions from the premises of each toxic air pollutant discharged by the new installation or source will not unreasonably endanger human health.

D. Restrictions on materials in the waste stream

The Permittee shall monitor the material in its waste stream in accordance with Department approved procedures to comply with the following waste restrictions:

- (1) Municipal Solid Waste may include certain `solid waste generated from industrial, institutional, and commercial facilities such as trimmings, off-specification products, and similar materials. Hazardous wastes, and infectious medical wastes must be excluded.
- (2) Infectious waste may not be stored, burned, or disposed of at this facility; and
- (3) Off-spec and outdated pharmaceuticals may be burned at the facility provided that the burning does not cause a violation of any standard or operating requirement.

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

I. BACKGROUND

Wheelabrator Baltimore, L.P. (Wheelabrator or the “Company”), formerly known as Baltimore RESCO Company, L.P., operates a municipal solid waste resource recovery facility (SIC Code 4953). The facility consists of three large mass burn waterwall municipal waste combustors (MWC) each rated at 750 tons per day (TPD) yielding a facility wide capacity of 2,250 TPD. The steam that is generated by the MWCs is either sold to a steam distribution system or used to produce electricity via an on-site steam turbine.

Combustion gases are exhausted through a stack (Emission Point EP1) that contains three flues, one for each of the three MWCs. Each MWC train is equipped with a urea injection selective non-catalytic reduction (SNCR) system to control NO_x emissions; a “slaked lime” spray dryer absorber (SDA) system to control acid gas emissions; an activated carbon injection system for enhanced mercury and dioxin/furan control; and a four field electrostatic precipitator (ESP) to control particulate matter and metals from the exhaust stream. Each stack is equipped with a continuous opacity monitoring system (COM) and continuous emission monitoring systems (CEMS) for monitoring the carbon monoxide (CO), sulfur dioxide (SO₂), and nitrogen oxides (NO_x) content of the stack exhaust gases, as well as an oxygen (O₂) and carbon dioxide (CO₂) monitors for monitoring the stack gas dilution. Additionally, SO₂ and O₂ CEMS are located upstream of control devices for determining percent reduction of SO₂.

Three wet scrubbers are used to control particulate matter from the ash handling areas. One wet scrubber controls particulate emissions from the ash handling area vent. The second wet scrubber is used to control particulate matter from the ash loadout area vent. A third wet scrubber is used to control particulate emissions from the ash trommel area vent. All three wet scrubbers are operated on an as needed basis to ensure that particulate matter is controlled from ash handling areas.

Other registered equipment at this facility include three (3) lime storage silos equipped with a common bin vent filter, and one (1) activated carbon storage silo equipped with a bin vent bag filter. Both silos dispense their respective materials into a closed system that minimizes the potential for fugitive emissions.

The ash handling areas and the storage silos have a potential to emit for particulate matter of less than 1 ton per year. Consequently, for the purposes of the Company’s Part 70 permit, these sources have been listed in the insignificant activities section of the permit.

Table 1 below summarizes the most recent five years actual emissions from Wheelabrator. The primary sources of criteria pollutants and HAPs are from the facility combustors. The major source threshold for triggering Title V permitting requirements in Baltimore City is 25 tons for VOCs and NO_x, 100 tons for the other criteria pollutants, 10 tons for any single hazardous air pollutant (HAP) and 25 tons for the aggregate of all HAP emissions. Since the NO_x, SO₂ and HAP emissions are greater than the major source threshold, and the fact that the facility is a

PART 70 OPERATING PERMIT FACT SHEET**WHEELABRATOR BALTIMORE, L.P.****1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886**

municipal waste combustor, the company is required to obtain a Title V- Part 70 Operating Permit under COMAR 26.11.03.01.

The Department received the Company's Part 70 renewal permit application for the Annapolis Road facility on April 27, 2012. The application was deemed by the Department to be administratively complete on October 26, 2012.

Table 1: Actual Emissions

Calendar Year	NO _x (TPY)	SO _x (TPY)	PM ₁₀ (TPY)	CO (TPY)	VOC (TPY)	HAPS (TPY)
2011	1133	261	9.9	84.4	2.8	80
2010	1077	231	3.14	70.6	2.05	113
2009	1162	226	0.365	89.6	1.68	122
2008	1094	226	10.2	77.0	1.88	84
2007	1065	290	9.3	34.3	1.90	79

Greenhouse Gas (GHG) Emissions

Wheelabrator reported the following greenhouse gases (GHGs) related to Clean Air Act requirements: carbon dioxide, methane, and nitrous oxide. These GHGs originate almost entirely from the combustion of municipal solid waste. The facility has not triggered Prevention of Significant Deterioration (PSD) requirements for GHG emissions; therefore, there are no applicable GHG Clean Air Act requirements. However, Wheelabrator is a major source for GHGs (threshold: 100,000 TPY CO₂e) and the Permittee is required to quantify facility wide GHGs emissions and report them in accordance with Section 3 of the Part 70 permit. Table 1-B summarizes the GHG emissions from Wheelabrator based on its Annual Emission Certification Reports:

Table 1-B: Greenhouse Gases Emissions Summary

GHG	Conversion factor	2009 tpy CO ₂ e	2010 tpy CO ₂ e	2011 tpy CO ₂ e
Carbon dioxide CO ₂	1	732,115	717,110	739,410
Methane CH ₄	21	272	43	89
Nitrous Oxide N ₂ O	310	2,691	2,641	11,036
Total GHG CO ₂ eq		735,078	719,795	750,535

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

Revisions to the Title V Operating Permit Issued on June 1, 2009.

In response to the Environmental Protection Agency's Order which partially granted and partially denied the citizen petition for EPA to object to the issuance of the Title V operating permit for the Wheelabrator Baltimore, L.P. facility, the Department issued a revised Title V operating permit on November 1, 2011. The Department revised the averaging time for Prevention of Deterioration (PSD) limits for the emissions of nitrogen oxides (NO_x), sulfur dioxide (SO₂) and carbon monoxide so that they are equivalent to times established in the original PSD permit issued in 1982. The PSD permit states that compliance with the emissions limits will be determined based on the results of the average of 3 to 9 stack test runs. The Part 70 permit issued on June 1, 2009 set a 24-hour averaging time for NO_x and CO and a 3-hour averaging time for SO₂ when compliance is demonstrated with use of data collected by continuous emissions monitoring systems. In the revised permit issued on November 1, 2011, the averaging time was set at 8 hours for all three pollutants.

Additionally, the Department revised the permit issued on June 1, 2009 by adding language to explain the methodology that Wheelabrator uses to convert concentration measurements in units of parts per million (ppm) into mass emissions rate of pounds per hour. Continuous emissions monitoring systems measure concentrations of air pollutants in a gas stream. PSD emissions limits are expressed in pounds per hour. The revised permit provided the formula that is currently used for the conversion when CEM data is used to demonstrate compliance with the PSD limits.

Finally, an explanation for the rationale for the periodic monitoring strategy for demonstrating compliance with standards for emissions of PM, Pb, Cd, Hg, dioxin/furans, and HCl from the municipal waste combustors was added to the fact sheet. These changes have been retained in the present Title V operating permit and fact sheet.

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

II. EMISSION UNIT IDENTIFICATION

The Company has identified the following emission units at the Baltimore facility as being subject to Title V permitting requirements and having applicable requirements.

Table 2: Emission Unit Identification

Emissions Unit Number	MDE Registration Number	Emissions Unit Name and Description	Date of Installation
Emissions Unit 1	510-1886-2-0255	One (1) 750 TPD Wheelabrator-Frye mass burn waterwall municipal waste combustor equipped with SNCR, SDA, ESP and activated carbon injection systems.	May 1985
Emissions Unit 2	510-1886-2-0256	One (1) 750 TPD Wheelabrator-Frye mass burn waterwall municipal waste combustor equipped with SNCR, SDA, ESP and activated carbon injection systems.	May 1985
Emissions Unit 3	510-1886-2-0257	One (1) 750 TPD Wheelabrator-Frye mass burn waterwall municipal waste combustor equipped with SNCR, SDA, ESP and activated carbon injection systems.	May 1985

III OVERVIEW OF THE PART 70 PERMIT

Section I of the Part 70 Permit contains a brief description of the facility and an inventory list of the emission unit for which applicable requirements are identified in Section IV of the permit.

Section II of the Part 70 Permit contains the general requirements that relate to administrative permit actions. This section includes the procedures for renewing, amending, reopening, and transferring permits, the relationship to permits to construct and approvals, and the general duty to provide information and to comply with all applicable requirements.

Section III of the Part 70 Permit contains the general requirements for testing, record keeping and reporting; and requirements that affect the facility as a whole, such as open burning, air pollution episodes, particulate matter from construction and demolition activities, asbestos provisions, ozone depleting substance provisions, general conformity, and acid rain permit. This section includes the requirement to report excess emissions and deviations, to submit an annual emissions certification report and an annual compliance certification report, and results of sampling and testing.

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Section IV of the Part 70 Permit identifies the emissions standards, emissions limitations, operational limitations, and work practices applicable to each emissions unit located at the facility. For each standard, limitation, and work practice, the permit identifies the basis upon which the Permittee will demonstrate compliance. The basis will include testing, monitoring, record keeping, and reporting requirements. The demonstration may include one or more of these methods.

Section V of the Part 70 Permit contains a list of insignificant activities. These activities emit very small quantities of regulated air pollutants and do not require a permit to construct or registration with the Department. For insignificant activities that are subject to a requirement under the Clean Air Act, the requirement is listed under the activity.

Section VI of the Part 70 Permit contains State-only enforceable requirements and identifies requirements that are not based on the Clean Air Act, but solely on Maryland air pollution regulations. These requirements generally relate to the prevention of nuisances and implementation of Maryland's Air Toxics Program.

IV. REGULATORY REVIEW/TECHNICAL REVIEW/ COMPLIANCE
MEHODOLOGY/

PERMIT TO CONSTRUCT HISTORY

An initial prevention of significant deterioration (PSD) approved in 1983 as amended in February 1986 was for the construction of an incinerator with a capacity of 740,000 tons of refuse per year. This was later amended to the current combined total rated capacity of 821,250 tons of refuse per year or 2250 tons/day on December 26, 1995 for the three waterwall furnace incinerators.

APPLICABLE SOURCE SPECIFIC FEDERAL REQUIREMENTS

The Permittee is subject to the federal Emission Guidelines under 40 CFR part 60 subpart Cb *Emissions and Guidelines and Compliance Times for Large Municipal Waste Combustors that are constructed on or before September 20, 1994*. The EPA promulgated this subpart in accordance with Sections 111(d)/129 of the Clean Air Act Amendments of 1990, which required EPA to develop performance standards for new municipal waste combustors (MWCs) and emissions guidelines for existing MWCs. The State of Maryland had the responsibility of developing a State plan to implement the emission guidelines. The Maryland Department of the Environment implemented the Subpart Cb emission guidelines in the COMAR 26.11.08.08 regulations. All affected facilities were required to come into compliance with the requirements of the emission guidelines by December 19, 2000. COMAR 26.11.08.08 incorporates by reference certain paragraphs under New Source Performance Standards for large MWC, 40 CFR part 60, subpart Eb, but the facility is not directly subject to this regulation.

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

On May 10, 2006, the EPA promulgated revisions to Subparts Eb and Cb. The revisions to Subpart Cb include somewhat more stringent standards for five regulated pollutants -particulate matter (PM), cadmium (Cd), mercury (Hg), lead (Pb) and dioxin/furan. Additionally, minimum CEMs availability requirements were made more stringent. The amendment to Maryland Regulation COMAR 26.11.08.08 to incorporate the May 10, 2006 changes to Subpart Cb was adopted October 2007. The revised standards became effective on April 28, 2009.

APPLICABLE SOURCE-SPECIFIC FEDERALLY ENFORCEABLE STATE REQUIREMENTS.

Emissions Units EU-1, EU-2, and EU-3

Three Wheelabrator-Frye 750 TPD mass burn waterwall municipal waste combustors (MWCs). Registration No. 2-0255, 2-0256, and 2-0257

(A) Emission Standards and General Requirements

1. A person who owns or operates an existing large MWC subject to this regulation may not violate any of the emission standards or general requirements found in § A(2) of this regulation. [**Authority: COMAR 26.11.08.08A(1)**]
2. The standards in Sec. A (2) of this regulation apply at all times except during periods of startup, shutdown, or malfunction as provided in 40 CFR §60.58b(a). [**Authority: COMAR 26.11.08.08A(3)**]
 - (a) Duration of start-up, shutdown, or malfunction period are limited to 3 hours per occurrence, except for carbon monoxide, where the malfunction period may be extended to 15 hours when loss of boiler water level control (e.g., tube failure) or combustion air control (e.g. loss of combustion air fan, induced draft fan, combustion grate bar failure) is determined to be a malfunction [**Authority: COMAR 26.11.08.08A(3), 40 CFR §§ 60.58b(a)(1)(i) and (1)(iii)**];
 - (b) The start-up period commences when the facility begins the continuous burning of municipal solid waste and does not include any warm-up period when the facility is combusting a fossil fuel or any other auxiliary fuel, and no municipal waste is being combusted [**Authority: COMAR 26.11.08.08A(3) and 40 CFR 60.58b(a)(1)(i)**].
 - (c) To allow for waste to be emptied from the throat to the feeding chute, the shutdown period shall begin 30 minutes after the chute to the loading hopper of the combustion train is closed [**Authority: COMAR 26.11.02.02H**].

PART 70 OPERATING PERMIT FACT SHEET**WHEELABRATOR BALTIMORE, L.P.****1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886**

3. Emissions Standards and General Requirements. See Table 3 [Authority: COMAR 26.11.08.08A (2)]

Table 3		
<i>Pollutant/ Parameter</i>	<i>Emissions Standard for a Large MWC</i> * Adjusted to 7 percent oxygen on dry basis.	<i>Performance and Compliance Test Requirements</i>
Opacity	10 percent opacity with Continuous Opacity Monitoring System (COMS) based on six minute block averages.	EPA Reference Method 9 and COMS. Applicable test procedures and methods as specified in 40 CFR §60.58b(c). Quality assurance and quality control requirements are as in Technical Memorandum 90-01. In case of inconsistencies in data or conflicting data Method 9 results will determine compliance.
Particulate Matter	25 mg/dscm* (0.01093 gr/dscf)*	EPA Reference Method 5. Annual test, methods and procedures as specified in 40 CFR §60.58b(c).
SO ₂ (Sulfur Dioxide)	29 ppmv - 24 hr. geometric mean or 75 percent reduction, whichever is less restrictive*	CEMS. Applicable test procedures and methods as specified in 40 CFR §60.58b(e).
NO _x (Oxides of Nitrogen)	205 ppmv - 24 hr. arithmetic average.	CEMS. Applicable test procedures and methods as provided in 40 CFR §60.58b(h).
CO (Carbon Monoxide)	100 ppmv - 4 hr. block avg.*	CEMS. Methods and procedures as specified in 40 CFR §60.58b(b) and 40 CFR §60.58b(i).

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table 3		
<i>Pollutant/ Parameter</i>	<i>Emissions Standard for a Large MWC</i> * Adjusted to 7 percent oxygen on dry basis.	<i>Performance and Compliance Test Requirements</i>
HCl (Hydrogen Chloride)	29 ppmv* or at least 95 percent reduction whichever is less restrictive.	EPA Reference Method 26 or 26A. Annual test except as provided in 40 CFR §60.58b(f). Applicable test procedures and methods as provided in 40 CFR §60.58b(f).
Dioxins /Furans	35 ng/dscm* (total mass) for ESP based control device	EPA Reference Method 23. Annual test except as provided in 40 CFR §60.58b(g) (5) (iii) and 40 CFR §60.38b (b). Applicable test procedures and methods as specified in 40 CFR §60.58b(g).
Cd (Cadmium)	35 µg/dscm*	EPA Reference Method 29. Annual test except as provided in 40 CFR §60.58b(d). Applicable test procedures and methods as specified in 40 CFR §60.58b(d).
Pb (Lead)	400 µg/dscm*	EPA Reference Method 29. Annual test except as provided in 40 CFR§ 60.58b(d). Applicable test procedures and methods as specified in 40 CFR §60.58b(d).
Hg (Mercury)	50 µg/dscm* Or 85% reduction by weight applies if less restrictive than the above.	EPA Reference Method 29. Annual test except as provided in 40 CFR §60.58b(d) and (m). Applicable test procedures and methods as specified in 40 CFR §60.58b(d).

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table 3		
<i>Pollutant/ Parameter</i>	<i>Emissions Standard for a Large MWC</i> * Adjusted to 7 percent oxygen on dry basis.	<i>Performance and Compliance Test Requirements</i>
Load	Not to exceed 110 percent of maximum load during most recent dioxin/furan performance test during which compliance with the dioxin/furan emission limit is achieved.	Continuous monitoring – 4 hr. block arithmetic average steam load. Applicable test procedures and methods as provided in 40 CFR §60.58b(i).
Temperature	The maximum particulate matter control device inlet temperature must not exceed by more than 17 degrees Celsius the temperature during the most recent dioxin/furan test demonstrating compliance.	Continuous monitoring. The temperature shall be calculated in 4-hr. block arithmetic averages. Applicable test procedures and methods satisfying the requirements of 40 CFR §60.58b(i) and exemptions in 40 CFR 60.53b(c).
Fugitive Ash Emissions	Visible emissions less than 5 percent of the observation period during ash transfer.	EPA Reference Method 22 observations as specified in 40 CFR §60.58b(k). Annual test. The emission limit excludes visible emissions discharged inside buildings or enclosures of ash conveying systems or during maintenance and repair of ash conveying systems as specified in 40 CFR §60.55b.

Testing Requirements: [COMAR 26.11.08.08A(2)]

The Permittee shall perform testing requirements for the emissions and operational parameters in accordance with the test methods and specified frequencies as referenced in Table 3 for the three large MWCs no less than 9 months and no more than 15 months following the previous test.

[Authority: COMAR 26.11.08.08A(2), which references 40 CFR §60.58b]

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

Monitoring Requirements: [COMAR 26.11.08.08B]

1. A person who owns or operates an existing MWC subject to this regulation shall:
[Authority: COMAR 26.11.01.11B(3) and COMAR 26.11.08.08B(1)]
 - (a) Install, calibrate, operate and maintain continuous emission monitors for carbon monoxide, oxygen, opacity, oxides of nitrogen, and sulfur dioxide;
 - (b) Locate monitors downstream of the final air pollution control device to measure concentrations of oxygen, oxides of nitrogen, sulfur dioxide, and opacity of the exhaust gases; and
 - (c) Install, operate, and maintain at a minimum, one temperature monitor to measure the temperature of the flue gas as it enters the particulate matter control device.
2. If the percent removal option is to be used to show compliance with Sec. B (1)(b) of this regulation, sulfur dioxide and oxygen monitors shall also be located upstream of the pollution control device. Monitors shall be located at the combustor outlet to measure concentrations of carbon monoxide. [Authority: COMAR 26.11.08.08B(2)]

Note: SO₂ and O₂ are measured upstream of the air pollution control device to calculate percent removal, and CO is measured downstream of air pollution control devices as approved per COMAR 26.11.08.08(B)(4)

3. The monitors required by Sec. B (1)(a) and (b) of this regulation shall meet the installation, certification, reporting, record keeping, and other requirements of COMAR 26.11.01.10, performance specifications in 40 CFR Part 60, Appendix B, the quality assurance procedures in 40 CFR Part 60, Appendix F, specifications in 40 CFR Sec. 60.58b, and the specifications in the Department's Air and Radiation Management Administration Technical memorandum 90-01 "Continuous Emission Monitoring (CEM) Policies and Procedures", which is incorporated by reference in COMAR 26.11.01.10E.
[Authority: COMAR 26.11.08.08B(3)]
4. A person shall apply for and receive written approval from the Department before installing any of the monitors required in this chapter. [Authority: COMAR 26.11.08.08(B)(4)]

Additional Monitoring Requirements

Carbon Feed Rate Monitoring Requirements

5. During the performance tests for dioxins/furans and mercury, as applicable, the owner or operator shall estimate an average carbon mass feed rate based on carbon injection system operating parameters such as the screw feeder speed, hopper volume, hopper refill

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

frequency, or other parameters appropriate to the feed system being employed.

[Authority:40 CFR 60.58b(m)(1)]

6. An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during the initial performance tests for mercury emissions and each subsequent performance test for mercury emissions. **[Authority: 40 CFR §60.58b(m)(1)(i)]**
7. An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during the initial performance tests for dioxin/furan emissions and each subsequent performance test for dioxin/furan emissions. If a subsequent dioxin/furan performance test is being performed on only one affected facility at the MWC plant, the owner or operator may elect to apply the same estimated average carbon feed rate from the tested facility for all the similarly designed and operated facilities at the MWC plant.**[Authority:40 CFR §60.58b(m)(1)(ii)]**
8. During operation of the affected facility, the carbon injection system operating parameter(s) that are the primary indicator(s) of the carbon mass feed rate shall be averaged over a block 8-hour period and the 8-hour block average must exceed or equal the level(s) documented during the performance tests specified under 40 CFR 60.58b(m)(1)(i)&(ii) except as specified in §§(m)(2)(i) and §§(m)(2)(ii). **[Authority:40 CFR §60.58b(m)(2)]**
9. During the annual dioxin/furan or mercury performance test and the 2 weeks preceding the annual performance test, no limit is applicable for the average mass carbon feed rate if the provisions of §§(m)(2)(ii) are met. **[Authority:40 CFR §60.58b(m)(2)(i)]**
10. The limit for average mass carbon feed rate may be waived in accordance with permission granted by the Administer for the purpose of evaluating system performance, testing new technology or control technology, diagnostic testing or related activities. **[Authority: 40 CFR §60.58b(m)(2)(ii)]**

Record Keeping Requirements

1. The Permittee shall maintain records in accordance with 40 CFR Sec. 60.59(b) of Subpart Eb, as applicable, except for the siting requirements under Sec. 60.59b(a), (b)(5), and (d)(11) of 40 CFR 60 Subpart Eb. **[Authority: COMAR 26.11.08.08C(1)]**
2. Continuous emissions monitoring data reduction and data availability shall be in accordance with COMAR 26.11.01.10. If there is any inconsistency between COMAR 26.11.01.10 and 40 CFR Part 60, the requirements of 40 CFR Part 60 govern.**[Authority: COMAR 26.11.08.08C(2)]**

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

3. The Permittee shall estimate the total carbon usage of the plant for each calendar quarter by two independent methods as stated in conditions 4 and 5 below. **[Authority: 40 CFR §60.58b(m)(3)]**
4. The Permittee shall estimate total carbon usage at the plant by maintaining records for of the weight of carbon delivered to the plant on a quarterly basis. **[Authority: 40 CFR §60.58b(m)(3)(i)]**
5. The Permittee shall estimate the average carbon mass feed rate for each hour of operation for each affected facility based on the carbon feed system parameters specified during performance testing. The Permittee shall sum the results for all affected facilities at the plant for the total number of hours of operation during the calendar quarter. **[Authority: 40 CFR §60.58b(m)(3)(ii)]**
6. The Permittee shall retain records of quarterly carbon usage using the methods described above for a period of 5 years and make that data available to the Department upon request. **[Authority: COMAR 26.11.03.06C]**

Reporting Requirements

1. A person who owns an existing MWC subject to this regulation shall report and maintain records in accordance with 40 CFR Sec. 60.59(b) of Subpart Eb, as applicable, except for the siting requirements under Sec. 60.59b(a), (b)(5), and (d)(11) of 40 CFR 60 Subpart Eb. **[Authority: COMAR 26.11.08.08C(1)]**
2. Continuous emissions monitoring data reduction and data availability shall be as prescribed in COMAR 26.11.01.10. If there is any inconsistency between COMAR 26.11.01.10 and 40 CFR Part 60, the requirements of 40 CFR Part 60 govern. **[Authority: COMAR 26.11.08.08C(2)]**
3. The Permittee shall submit a quarterly CEM/COM and parameter monitoring data excess emission report to the Department not later than 30-days following each calendar quarter. At a minimum, the report shall include: **[Authority: COMAR 26.11.01.10D(2)(c) and COMAR 26.11.01.11E(2)(c)]**
 - (a) A listing of the time period, magnitude, and cause of all emissions that exceeded the applicable emission or parameter monitoring standard for the respective emission/parameter averaging time,
 - (b) listing of all excluded data and the reason for excluding the data,
 - (c) A listing of all the 1-hour average emission concentrations, 1-hour percent reduction data, as applicable, and 1-hour parameter monitoring data for any day that there was either an exceedance of an emission or parameter standard or for any day that the

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

Permittee excluded data. The listing is only required for the respective pollutant or parameter that there was an exceedance for or Permittee excluded data,

- (d) A listing of time periods (including invalid hourly averages and invalid 6 minute averages for COMS) and cause of all CEM/COM and parameter monitor downtimes,
 - (e) A listing of installation (MWC units) downtime,
 - (f) Daily calibration activities when results exceeded the daily calibration drift and the results of all audits performed during the quarter, and
 - (g) A summary of the quarterly totals of excess emissions, installation downtimes, and monitor downtimes.
4. A person who owns an existing MWC subject to this regulation shall submit to the Department semi-annual reports that includes the information specified in §§(g)(1) through §§(g)(5), as applicable, by August 1st and February 1st for the respective reporting periods: **[Authority 40 CFR §60.59b(g)]**
5. A person who owns an existing MWC subject to this regulation shall submit to the Department semi-annual reports that includes the information specified in §§(h)(1) through §§(h)(5), as applicable, for any recorded pollutant or parameter that does not comply with the pollutant or parameter limit specified under this subpart by August 1st and February 1st for the respective reporting periods. **[Authority: 40 CFR §60.59b(h)]**

Rationale for monitoring strategy for PM, Pb, Cd, Hg, dioxin/furans, and HCl.

The permit requires continuous monitoring of operating parameters such as activated carbon mass feed rate, municipal waste combustor unit load, and maximum inlet temperature to the particulate matter control device. Monitoring of these parameters provides assurance that the incinerators continue to operate at the levels established during compliance stack tests. Stack tests provide a snapshot of a facility's emissions at the time testing is performed. In conjunction with the testing and sampling of emissions recording devices are used to simultaneously measure a range of pollutants and operating conditions in several "runs" over the course of a testing day. By this means, operating conditions are correlated with compliance with the emissions limits.

It is also well established that good combustion practice is the most effective strategy in reducing PM emissions (which includes mercury, cadmium, and lead), dioxins/furans, other organic pollutants as well as carbon monoxide (CO) from municipal waste combustors. Good combustion control practices include proper design, construction, operation and maintenance practices for combustion grates, boilers, and air pollution controls. Low CO levels are an indicator of complete combustion and that the unit is being operated in a manner that minimizes not only CO emissions but also emissions of other pollutants. Maintaining low CO emissions ensures complete combustion of all combustible waste and destruction of organic compounds.

PART 70 OPERATING PERMIT FACT SHEET**WHEELABRATOR BALTIMORE, L.P.****1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886**

Good combustion practices also includes maintaining unit load or steam flow near levels established during stack testing to minimize carryover of flyash from the furnace to boiler sections and thereby reduce PM and associated emissions loading to air pollution controls.

Wheelabrator is subject to the emission guidelines for existing large municipal waste combustors (MWCs), which impose limits for PM, mercury, cadmium, lead, hydrogen chloride, and dioxins/furans. MDE has evaluated whether the monitoring requirements in the existing federal rules are sufficient for assuring compliance with these limits. As part of this analysis, MDE has reviewed the underlying basis of the MWC rule and determined that there is nothing unique to the Wheelabrator facility that would indicate that it is not representative of existing municipal waste combustors in general with respect to construction design, air pollution control equipment, continuous monitoring systems, emissions variability, types of wastes combusted, etc. Furthermore, the use of parametric and surrogate monitoring has been reaffirmed in recent rules promulgated by EPA, including the Portland Cement MACT and the Boiler MACT. EPA, in the September 9, 2010 Final Rule promulgating National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants reaffirmed EPA's position on using surrogate monitoring. In particular, EPA notes that the Courts have also upheld EPA's position- "Particulate matter serves as a surrogate for non-volatile metal HAP (a determination upheld for this source category in National Lime Association, 233 F.3d at 637-39)." EPA's Boiler MACT (40 CFR part 63, subpart DDDDD, Mar 21, 2011 final, amended Jan 31, 2013) also references both parametric monitoring and the use of surrogates as acceptable methods for demonstrating continuous compliance with Clean Air Act emission standards.

The following table summarizes the monitoring strategy for each pollutant, background information and permit conditions that assure compliance with the emission limitations for PM, Pb, Cd, Hg, dioxin/furans, and HCl.

Pollutant(s)	Surrogate pollutant / Operating Parameter	Permit Condition
PM, Pb and Cd	Opacity (COMs)	<p>The opacity limit in the Title V permit is 10 percent, averaged over a 6 minute block period. The facility must operate and maintain a continuous opacity monitoring system.</p> <p>Wheelabrator operates electrostatic precipitators (ESP) for control of particulate matter (PM) and MWC metals and to capture carryover carbon and lime from the ACI and SDA control systems. Relative changes in opacity levels are used by operators to make adjustments and ensure ESPs are operating at high</p>

PART 70 OPERATING PERMIT FACT SHEET**WHEELABRATOR BALTIMORE, L.P.****1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886**

		<p>efficiency levels.</p> <p>During the stack test opacity is measured and the results are evaluated in order to determine whether compliance with the opacity limit will also assure compliance with the PM emissions limit.</p> <p>The stack test results over the past years have shown that emissions of PM, Pb, and Cd are an order of magnitude below the emissions standards. The PM standard is 25 mg/dscm (0.01093 gr/dscf) and the results ranged from 0.00045 to 0.0079gr/dscf. For lead the standard is 400 µg/dscm and the results ranged from 14.2 to 103 µg/dscm. For Cd the standard is 35 µg/dscm and the results were 0.3 to 7.3 µg/dscm.</p>
Hg, Dioxin/ Furans	Carbon mass feed rate	<p><i>An average <u>carbon mass feed rate</u> in kilograms per hour or pounds per hour shall be estimated during the initial performance test for dioxin/furan emissions and each subsequent performance test for dioxin/furan emissions.</i></p> <p>During operation of the affected facility, the carbon injection system operating parameter(s) that are the primary indicator(s) of the carbon mass feed rate shall be averaged over a block 8-hour period and the 8-hour block average must exceed or equal the level(s) documented during the performance tests specified under 40 CFR 60.58b(m)(1)(i)&(ii) except as specified in §§(m)(2)(i) and §§(m)(2)(ii).</p> <p>The Permittee shall maintain records in accordance with 40 CFR Sec. 60.59(b) of Subpart Eb, as applicable, except for the siting requirements under Sec. 60.59b(a), (b)(5), and (d)(11) of 40 CFR 60 Subpart Eb. [Authority: COMAR 26.11.08.08C(1)]</p> <p>Incorporated by reference is 40 CFR Sec. 60.59(b) of Subpart Eb which states: “(d)(4) For affected facilities that apply activated carbon for mercury or dioxin/furan control, the records specified in paragraphs (d)(4)(i) through (d)(4)(v) of this section.</p> <p>(i) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated as required</p>

PART 70 OPERATING PERMIT FACT SHEET**WHEELABRATOR BALTIMORE, L.P.****1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886**

		<p>under §60.58b(m)(1)(i) of this section during the initial mercury performance test and all subsequent annual performance tests, with supporting calculations.</p> <p>(ii) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated as required under §60.58b(m)(1)(ii) of this section during the initial dioxin/furan performance test and all subsequent annual performance tests, with supporting calculations.</p> <p>(iii) The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated for each hour of operation as required under §60.58b(m)(3)(ii) of this section, with supporting calculations.</p> <p>(iv) The total carbon usage for each calendar quarter estimated as specified by paragraph 60.58b(m)(3) of this section, with supporting calculations.</p> <p>(v) Carbon injection system operating parameter data for the parameter(s) that are the primary indicator(s) of carbon feed rate (e.g., screw feeder speed).” Note: The facility continuously monitors the screw feed rate and once every 8 hours collects a sample in a bucket to verify the pounds/hour carbon feed rate.</p>
PM, Cd, Pb, Dioxins/ Furans	Unit Load	<p><i>The maximum demonstrated municipal waste combustor unit load shall be determined during the initial performance test for dioxins/furans and each subsequent performance test during which compliance with the dioxin/ furan emission limit specified in § 60.52b(c) is achieved. The maximum demonstrated municipal waste combustor unit load shall be the highest 4-hour arithmetic average load achieved during four consecutive hours during the most recent test during which compliance with the dioxin/furan emission limit was achieved.</i></p> <p>The facility is required to continuously monitor 4 hr. block arithmetic average steam load. The applicable test procedures and methods are as provided in 40 CFR 60.58b(i)(6) and (8).</p>

PART 70 OPERATING PERMIT FACT SHEET**WHEELABRATOR BALTIMORE, L.P.****1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886**

		The load is limited not to exceed 110 percent of maximum load during most recent dioxin/furan performance test during which compliance with the dioxin/furan emission limit is achieved.
HCl, Hg, Dioxin/ Furans	Maximum Inlet Temperature	<p><i>To determine compliance with the maximum inlet temperature to the particulate matter control device requirements under §60.53b(c), the owner or operator of an affected facility shall install, calibrate, maintain, and operate a device for measuring on a continuous basis the temperature of the flue gas stream at the inlet to each particulate matter control device utilized by the affected facility. Temperature shall be calculated in 4-hour block arithmetic averages.</i></p> <p>Research on the performance of MWC's has shown that maintaining low flue gas temperature has the dual effect of improving reagent (lime) utilization and increases removal of volatile trace elements, such as mercury and dioxin/furans, as well as acid gas emissions (HCl and SO₂).</p> <p>Maintaining particulate matter control device inlet temperature near the level established during annual dioxin testing ensure temperatures are maintained well below the temperature where post furnace formation of dioxins/furans on flyash collected in the particulate matter control device could occur.</p>
PM, Pb, Cd, Hg, HCl, and Dioxins /Furans	CO CEMS	<p>The facility must meet an Emissions Guidelines CO limit of 100 pppv on a 4 hour block average, excluding startup, shutdown, and malfunctions and a PSD limit of 121 pounds/hour based on an 8 hour block average with no exclusion of SSM . A continuous emissions monitoring system for CO is required to be operated and maintained.</p> <p>Combustion control is most effective in reducing dioxin, furans, other organic pollutants, PM, NOx and CO emissions (75 FR 31942, June 4, 2010 – Proposed rule for Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste</p>

PART 70 OPERATING PERMIT FACT SHEET**WHEELABRATOR BALTIMORE, L.P.****1801 ANNAPOLIS ROAD****BALTIMORE, MD 21230****PART 70 OPERATING PERMIT NO. 24-510-01886**

		<p>Incineration Units.)</p> <p>Low CO levels are an indicator of complete combustion and that the unit is being operated in a manner that minimizes not only CO emissions, but also emissions of other pollutants. (75 FR 31967).</p>
HCl	SO ₂ CEMS	<p>Wheelabrator utilizes an acid gas scrubber to reduce SO₂ emissions and uses a CEMs to measure SO₂ emissions and performance of the scrubber. HCl is more reactive than SO₂. The HCl reaction with the caustic in the scrubber will complete before the SO₂ reaction so the HCl emissions are related to SO₂ emissions. When compliance with the SO₂ limit is achieved, there is a reasonable level of assurance that continuous compliance with the HCl will also be achieved.</p> <p>EPA has noted the relationship between controls for HCl and controls for SO₂. The September 9, 2010 final Portland Cement MACT states- "Setting technology-based MACT standards for HCl will result in significant reductions in emissions of other pollutants, most notably SO₂..."</p> <p>EPA also noted the co-benefits of reducing SO₂ through an HCl limit in the recently finalized Boiler MACT as an explanation for not establishing a risk based exemption for HCl.</p>
All pollutants	Trained and Certified Incinerator Operators	<p>The permit requires Wheelabrator to have properly trained and certified incinerator operators. As part of the certification process, the operators receive training on combustion controls, including proper design, construction, operation and maintenance of the incinerator to destroy or prevent the formation of air pollutants prior to their release to the atmosphere. Combustion control is most effective in reducing PM, and CO emissions as well as dioxins/furans.</p>

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Compliance testing of applicable limits in COMAR 26.11.08.08A

The Company performed stack tests of all applicable pollutant parameters in April 2008, and has demonstrated compliance with the emission limits established in COMAR 26.11.08.08A(2). The results are shown below in Table 4.

Table 4		
<i>Pollutant/ Parameter</i>	<i>Emission Standard for a Large MWC * adjusted to 7 percent oxygen on dry basis.</i>	<i>Results of stack tests or compliance demonstrations</i>
Opacity	10 percent opacity with Continuous Opacity Monitoring System (COMS) based on six minute block averages.	EPA Reference Method 9 and COMS. The COMS quarterly reports for the past few years showed continuous compliance except for twice when the facility had a power failure and one time when there an electrical short caused by a bird landing on a rectifier tripped the ESP.
Particulate Matter	25 mg/dscm* (0.01093 gr/dscf)*	Stack Test April 23-26, 2013 Unit 1 – 0.0008 gr/dscf Unit 2 – 0.0018 gr/dscf Unit 3 – 0.0036 gr/dscf
SO ₂ (Sulfur Dioxide)	29 ppmv - 24 hr. geometric mean or 75 percent reduction, whichever is less restrictive*	CEMS. Based on the certified quarterly CEM reports, there have been no reported violations over the past 5 years.
NO _x (Oxides of Nitrogen)	205 ppmv - 24 hr. arithmetic for Mass burn waterwall MWC.	CEMS. Based on the certified quarterly CEM reports, there have been no reported violations over the past 5 years.
Carbon Monoxide	100 ppmv - 4 hr. block avg.*	CEMS. Based on the certified quarterly CEM reports, there have been no reported violations over the past 5 years.

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table 4		
<i>Pollutant/ Parameter</i>	<i>Emission Standard for a Large MWC * adjusted to 7 percent oxygen on dry basis.</i>	<i>Results of stack tests or compliance demonstrations</i>
HCl (Hydrogen Chloride)	29 ppmv* or at least 95 percent removal efficiency whichever is less restrictive.	Stack test April 23-26, 2013 Unit 1 – 11 ppm Unit 2 – 23 ppm Unit 3 – 27 ppm
Dioxins /Furans	35 ng/dscm* (total mass) for ESP based control device	Stack test April 12-15, 2011 Unit 1 – 1.62 ng/dscm: Stack test April 24-26, 2012 Unit 2 – 2.04 ng/dscm; Stack test April 23-26, 2013 Unit 3 – 1.12 ng/dscm.
Cd (Cadmium)	35 µg/dscm*	Stack test April 23-26, 2013 Unit 1 – 1.8 µg/dscm Unit 2 – 5.4 µg/dscm Unit 3 – 6.7 µg/dscm
Pb (Lead)	400 µg/dscm*	Stack test April 23-26, 2013 Unit 1 – 19.0 µg/dscm Unit 2 – 72.7 µg/dscm Unit 3 – 67.0 µg/dscm
Hg (Mercury)	50 µg/dscm* Or 85% reduction by weight applies if less restrictive than the above.	Stack test April 23-26, 2013 Unit 1 – 4.1 µg/dscm Unit 2 – 4.8 µg/dscm Unit 3 – 4.5 µg/dscm

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Table 4		
<i>Pollutant/ Parameter</i>	<i>Emission Standard for a Large MWC * adjusted to 7 percent oxygen on dry basis.</i>	<i>Results of stack tests or compliance demonstrations</i>
Load	Not to exceed 110 percent of maximum load during most recent dioxin/furan performance test during which compliance with the dioxin/furan emission limit is achieved.	<p>Stack test April 12-15, 2011 Test load on Unit 1-192 klb/hr New Load Limit 211.2 klb/hr per unit</p> <p>Stack test April 24-26, 2012 Test load on Unit 2-192 klb/hr New Load Limit 211.2 klb/hr per unit</p> <p>Stack test April 23-26, 2013 Test load on Unit 3-192 klb/hr New Load Limit 211.2 klb/hr per unit</p>
Temperature	The maximum particulate matter control device inlet temperature must not exceed by more than 17 degrees Celsius the temperature during the most recent dioxin/furan test demonstrating compliance.	<p>Stack test April 12-15, 2011 Unit 1 ESP inlet- 305 °F (151.7 °C) New Temp limit -335.7 °F (168.7 °C)</p> <p>Stack test April 24-26, 2012 Unit 2 ESP inlet- 305 °F (151.7 °C) New Temp limit -335.7 °F (168.7 °C)</p> <p>Stack test April 23-26, 2013 Unit 3 ESP inlet- 313 °F (156.1 °C) New Temp limit -343.6 °F (173.1 °C)</p>
Fugitive Ash Emissions	Visible emissions less than 5 percent of the observation period during ash transfer.	EPA Reference Method 9 observations as specified in 40 CFR 60.58b(k). Annual test. The emission limit excludes visible emissions discharged inside buildings or enclosures of ash conveying systems or during maintenance and repair of ash conveying systems as specified in 40 CFR 60.55b.

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

The carbon feed rate during the April 23-26, 2013 stack test was 19 lbs/hr for all three units. The carbon feed rates during the April 24-26, 2012 stack test were 19 lbs/hr for units 1 and 3 and 20 lbs/hr for unit 2. The carbon feed rate during the April 12- 15, 2011 stack test was 19 lbs/hr for all three units.

(B) Incinerator Operator Training [COMAR 26.11.08.09]

- (1) Certification Requirement—A person may not operate or allow an incinerator to be operated unless the owner certifies to the Department on a form approved by the Department that the incinerator operator:
 - (a) Has completed an initial training course approved by the Department which meets the requirements of COMAR 26.11.08.09D; and
 - (b) Annually, after initial certification, completes a review course approved by the Department.
- (2) For any incinerator operator who operates a municipal waste combustor (MWC), the training course shall address the following subjects in detail:
 - (a) Overall operation, maintenance, and performance of the facility;
 - (b) Start-up and shut-down of the facility;
 - (c) Applicable federal, State, and local environmental regulations, and sanctions for violations;
 - (d) Policies and procedures for proper and safe plant operation;
 - (e) Maintaining records of facility operations;
 - (f) Actions to correct upsets or emergencies;
 - (g) Control room operations;
 - (h) Ash handling and disposal;
 - (i) Combustion theory;
 - (j) Air pollution control technology; and
 - (k) Continuous emission monitors and their calibration, and quality assurance requirements.

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- (3) For the operator of any municipal waste combustor (MWC), completing a training course means:
- (a) Completing an initial training course approved by the Department of at least 5 days (40 hours) duration; and
 - (b) Passing a written test approved by the Department.
- (4) The certified operator shall, after initial training, complete and pass an annual review course approved by the Department of at least 1-day (8 hours) duration.
- (5) Records and Notification.

Within 10 days after training is complete, the person who conducts an approved incinerator operator training course shall:

- (a) Notify the Department in writing, of the names, employee identification numbers, and employer of those incinerator operators who have successfully complete the training course; and
 - (b) Provide a certificate to each incinerator operator who has satisfactorily completed the training course and has passed the required examination.
- (6) Operation and Maintenance Manual.
- (a) The owner or operator of a large MWC, shall develop and maintain on-site, an operations and maintenance manual that contains, at a minimum, all of the course content requirements in COMAR 26.11.08.09D(1) and in 40 CFR §60.54b(e); and
 - (b) The operations and maintenance manual shall be updated annually.

Compliance demonstration

The Company has an approved MWC operator-training course and Operations and Maintenance Manual. All operators are current on their Operator Training Certification. The Incinerator Operator Training program based on the requirements found in COMAR 26.11.08.09 for MWCs and their operators have been approved as part of Maryland's 111(d) Plan for MWCs and meets the incinerator operator training requirements in Subpart Eb [40 CFR §60.54b(e)].

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

(C) PSD Approval 83-01 (Feb. 21, 1986)

1. The Permittee shall not exceed the facility-wide (**MWC Units #1, 2 & 3**) emissions limitations specified below [**Authority PSD Approval 83-01, Part I- Condition (1)**]:

SO ₂ :	375 lbs./hr. and 1,478 tons/year
CO:	121 lbs./hr. and 477 tons/year
NO _x :	298 lbs./hr. and 1,176 tons/year
Fluorides:	12 lbs./hr. and 47 tons/year

- (a) Compliance with the facility wide lbs./hr PSD emission limit shall be determined as follows:

- SO₂, CO, and NO_x: 8-hour block average. A valid facility eight hour block average is based on a minimum of 6 hours of total facility hourly data.
- Fluorides: the average of three test runs using EPA Reference Method 13B, 26A, or equivalent
- All emissions associated with startup, shutdown, and malfunction episodes are included in the pounds per hour standard

[**Authority: COMAR 26.11.02.02H**]

- (b) The tons per year PSD emission limits are a 12-month composite (rolling monthly) and includes all emissions associated with startup, shutdown, and malfunction episodes.

[**Authority: COMAR 26.11.02.02H**]

2. The Permittee shall develop and submit to the Department for approval, procedures to ensure that only acceptable wastes as defined in Appendix A of the PSD application are incinerated. [**Authority: PSD Approval 83-01 Part I-Condition (4)**]
3. The start-up fuel for the incinerator shall be natural gas. The incinerator shall not exceed a fuel consumption rate of 2.7×10^7 ft.³ of natural gas in any one-year period. [**Authority: PSD Approval 83-01 Part I-Condition (5)**]

Testing Requirements:

The Permittee shall perform annual testing for fluorides no less than 9 months and no more than 15 months following the previous test using EPA Reference Method 13B or 26A or equivalent. Testing may be combined with the existing large MWC annual HCl testing. [**Authority COMAR 26.11.03.06C(3)**]

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

Monitoring Requirements:

1. The Permittee shall monitor natural gas fuel usage to ensure compliance with the PSD limitation. Total facility fuel usage shall be calculated on a 12 month rolling average basis. **[Authority: COMAR 26.11.03.06C(3)].**
- 2 The Permittee shall continuously monitor pollutants and other parameters necessary to calculate the pounds per hour PSD limits. The methodology for calculating the lbs/hr emissions shall be as follows.

Average lbs/hour = ppm X AFSF factor (DSCFH/Klbs) X actual steam flow (Klbs/hr) X Conversion Factor, where:

- ppm = CEM hourly average ppmdv for CO, NO_x, and SO₂
- Stack test air flow to steam flow factor (AFSF) = Dry standard cubic foot per hour air flow per thousand lbs steam (DSCFH/Klb)
- Actual steam flow = average hourly steam flow [thousand (K)lbs/hour]
- Conversion Factor = From 40 CFR Part 60 Appendix B Method 19 (procedures for converting ppm to lbs/dscf)
SO₂ = 1.66E-07
NO_x = 1.194E-07
CO = 7.27E-08

[Authority: COMAR 26.11.03.06C(3)].

Rationale and Discussion of monitoring strategy

The revised monitoring and calculation methodology is as follows: NO_x, SO₂ and CO CEM data from each unit is converted to hourly average lbs/hr emission rates using unit specific stack test air flow to steam flow (AFSF) factors in units of dry standard cubic feet per hour per thousand pounds of steam. The AFSF factors are derived from the stack test air flow and boiler steam flow averages for each unit from annual stack testing. The AFSF factors are updated during annual stack testing. Actual hourly boiler steam flow averages will be used in conjunction with the AFSF factors to calculate hourly stack air flows based on boiler operating levels. If steam load increases, then the calculated hourly stack air flow and emissions rate increase proportionately.

The hourly emissions rate calculations are programmed into the CEM data loggers located in the CEM shelter and transmitted to the CEM data acquisition system (DAS) computer. The DAS computer calculates hourly total facility emissions for SO₂, NO_x, and CO and then calculates the SO₂, NO_x, and CO 8 hour block total facility averages from the hourly facility emissions totals. A valid facility eight hour block average is based on a minimum of 6 hours

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

of total facility hourly data. A summary of the daily 8 hour block average facility emissions rate for each unit and total facility emission averages are printed daily and reviewed by operating personnel. The annual 12 month rolling SO₂, NO_x, and CO total emissions will be calculated in CEM DAS computer. Daily total facility emissions will be used to generate monthly facility emissions totals in tons. The 12 month rolling average of total facility emissions will be calculated at the end of each calendar month. The 12 month rolling average of total facility emissions will be used in the annual emission inventory report. The hourly CEM data, hourly unit, and total facility emissions averages and monthly facility emission totals will be archived in the CEM DAS computer hard drive.

The proposed monitoring methodology provides an accurate determination of facility emissions and compliance with PSD emissions limits for the following reasons: 1) Stack test air flow to steam flow factors are derived from actual stack testing conditions at representative operations and will be revised annually based on boiler operating conditions, 2) Real time boiler hourly steam flow averages will be used to calculate stack test air flows proportionately to boiler load making sure emissions accurately reflect boiler operating loads, 3) Stack test air flows are obtained directly from EPA Reference Method 1-4, 4) The CEMs are subject to the Department and EPA CEM QA/QC requirements that ensure accuracy, 5) Steam flow accuracy is verified by annual calibration of steam flow meters in accordance with the 40 CFR 60 Subpart Cb requirements, and 6) Stack test air flow to steam flow factors for each unit will be provided in the annual stack test report for the Department's review and approval. The approved stack test flow to steam flow factors will be included with the minimum carbon feed rates, maximum boiler steam flows and maximum ESP inlet temperature limits provided in the Department's stack test report acceptance letter.

Record Keeping Requirements:

1. The Permittee shall retain records of all emissions data and operating parameters and fuel use, as required by the terms of PSD Approval 83-01 for a period of five (5) years. **[Authority: PSD Approval 83-01 Part II Condition (5) and COMAR 26.11.03.06C]**
2. The Permittee shall maintain records of the calculated pounds per hour and the tons per year for a period of 5 years. **[Authority: COMAR 26.11.03.06C]**
3. The Permittee shall maintain a record of the results of the annual stack test for fluorides for a period of 5 years. **[Authority: COMAR 26.11.03.06C]**

Reporting Requirements:

1. The Permittee shall submit the results of annual fluoride tests along with the other annual emission test results that satisfy COMAR 26.11.08.08C(1). **[Authority: COMAR 26.11.03.06C]**

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

2. The Permittee shall submit a quarterly excess emission report to the Department not later than 30-days following each calendar quarter. At a minimum, the report shall include: **[Authority COMAR 26.11.03.06C]**
 - (a) A listing of the time period, magnitude, and cause of all emissions that exceeded the applicable emission standard for the respective emission averaging time and An explanation of the cause for the exceedance and actions taken to return to compliance, and
 - (b) A listing of all of the 12-month rolling emissions for SO₂, CO, NO_x for the quarter, and
3. If, for any reason, the Permittee does not comply or will not be able to comply with the emission limitations or other conditions specified in this Approval, the Permittee shall provide the Department with the following information as soon as possible, but no later than five (5) days after such conditions become known to the Company:
 - (a) Description of non-compliance;
 - (b) Cause of non-compliance;
 - (c) Anticipated time the non-compliance is expected to continue or, if corrected, the actual duration of non-compliance;
 - (d) Steps taken to minimize or eliminate non-compliance; and
 - (e) Steps taken to prevent recurrence of the non-compliance.
4. Submittal of this report does not constitute a waiver of the emission limitations or other conditions of this Approval nor does it in anyway restrict the Department's authority to enforce the conditions. **[Authority: PSD Approval 83-01 Part II-Condition (6)]**
Note: This report applies to noncompliance with PSD Approval 83-01 emission limits and other PSD conditions only.

Compliance demonstration

The Company's emissions certification statement have always shown that the annual SO₂, CO, NO₂ and fluoride emissions have been within the allowed limits established in PSD Approval 83-01 (see Section I, Table 1 for the SO₂, CO, NO₂ annual emissions for the past 5 years). The April 2012 stack testing continues to indicate that the fluorides emission rate is below detectable levels (less than 0.09 lb/hr).

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

Natural gas fuel use as reported in the Permittee's 2011 certified emission statement indicated that the consumption rate of $2.7 \times 10^7 \text{ ft}^3$ was not exceeded. The reported amount was $7.31 \times 10^6 \text{ Ft}^3$.

The ARMA's Compliance Program reviewed the Company's record keeping log during the most recent Full Compliance Evaluation inspection and found it to be in compliance with this requirement.

(D) NSINA Approval No. 83-01 (Feb. 21, 1986)

Each furnace shall be equipped with electrostatic precipitators (ESP) that shall be operated such that 0.017 gr/dscf the particulate grain loading at the outlet ends of the ESP complies with the particulate matter emission standard for large MWCs found at COMAR 26.11.08.08A(2) [NSINA Approval 83-01 Condition (3)].

Note: compliance with the Large MWC particulate emissions of 25 mg/dscm (0.01093 gr/dscf) under COMAR 26.11.08.08A(2) assures compliance with the NSINA limit.

Compliance demonstration

Each furnace is equipped with electrostatic precipitators and the particulate grain loading at the outlet ends of the ESP complies with the particulate matter emission standard for large MWCs found at COMAR 26.11.08.08A(2). Stack testing is performed on an annual basis to demonstrate compliance and the facility has always demonstrated compliance. The particulate emissions measured during the most recent compliance stack test on April 23-26, 2013 were as follows: Unit # 1-0.0008 gr/dscf, Unit 2- 0.0018 gr/dscf, and Unit 3- 0.0036 gr/dscf.

E Visible Emissions

The Permittee has demonstrated compliance with the no visible emissions requirements of COMAR 26.11.08.04B.

Compliance demonstration requires the Permittee to conduct periodic opacity or fugitive emission test using EPA Reference Method 9 observations for a 15 minute period at least once per month while the units are in operation. Records of these observations must be kept on-site for five (5) years and made available to the Department on request.

COMPLIANCE ASSURANCE MONITORING (CAM) REQUIREMENTS

CAM is intended to provide a reasonable assurance of compliance with applicable requirements under the Clean Air Act for large emission units that rely on air pollution control (APC) equipment to achieve compliance. The CAM approach establishes monitoring for the purpose

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

of: (1) documenting continued operation of the control measures within ranges of specified indicators of performance (such as emissions, control device parameters, and process parameters) that are designed to provide a reasonable assurance of compliance with applicable requirements; (2) indicating any excursions from these ranges; and (3) responding to the data so that the cause or causes of the excursions are corrected. In order for a unit to be subject to CAM, the unit must be located at a major source, be subject to an emission limitation or standard; use a control device to achieve compliance with the emissions limitation or standard; have pre-control emissions of at least 100% of the major source amount; and must not otherwise be exempt from CAM. Applicability determinations are made on a pollutant-by-pollutant basis for each emissions unit.

CAM Plan Applicability Determination

Background

Wheelabrator Baltimore, L.P. consists of three municipal waste combustors (MWCs) that generate steam, a portion of which is sold to a steam distribution system and a portion of which is used to produce electricity. Three wet scrubbers are used to control particulate matter from ash areas (ash handling area vent, ash loadout area vent, and ash trommel area vent). Other equipment include three lime storage silos equipped with a common bin vent filter and one activated carbon storage silo equipped with a bin vent bag filter. The lime and carbon storage silos and ash area wet scrubbers are included in the Title V permit as insignificant activities since these sources have potential uncontrolled PM emissions less than 1.0 ton/year.

Control Devices

The MWCs are equipped with selective non-catalytic reduction (SNCR) systems for control of oxides of nitrogen (NO_x), activated carbon injection (ACI) systems for control of mercury (Hg), spray dry absorbers (SDA) for control of acid gases (sulfur dioxide [SO₂] and hydrogen chloride [HCl]), and electrostatic precipitators (ESP) for control of particulate matter (PM) and MWC metals and to capture carryover carbon and lime from the ACI and SDA control systems. No tail-gas control devices are used for CO (emissions controlled by processes – i.e., combustion – controls, which are not considered to be applicable to Compliance Assurance Monitoring [CAM] requirements), so CAM is not applicable to any CO emission limitations based on 40 CFR 64.2(a)(2). The lime and carbon storage silos are vented during filling operations through fabric filter dust collectors and the ash areas are vented through wet scrubbers.

Emission Limitations

The MWCs are subject to the NSPS Subpart Cb emission limitations (adopted at COMAR 26.11.08.08A(2)), included in the current Title V Permit as Condition IV.1.1 as shown on the attached table. These NSPS Subpart Cb emission limitations were promulgated after 1990 and are thus exempt from CAM requirements under 40 CFR §64.2(b)(1)(i). The only other applicable MWC emission limitations are the original PSD Permit emission limitations for SO₂,

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

CO, NO_x, and fluorides, included in the current Title V permit as Condition IV.1.9 as shown on the attached table. Fluoride emissions are less than the major source threshold of 100 tons per year (TPY). In addition, CAM does not apply for fluorides because the PSD Permit fluoride emissions limitation is based on no controls (40 CFR §64.2(a)(2)). Although the facility wide CO PSD limit of 121 lbs/hr is exempt from CAM for the reason discussed above, a continuous determination method is included in the Title V permit. The Title V permit also specifies continuous compliance determination methods for the facility wide (combined emissions for all three units) SO₂ and NO_x PSD Permit emission limitations of 375 and 298 lbs/hour respectively using continuous emission monitoring systems (CEMS). Therefore, the CO, SO₂, and NO_x PSD Permit emission limitations are exempted from CAM requirements based on 40 CFR 64.2(b)(1)(vi). The lime silos and ash area wet scrubbers are insignificant activities and are thus not subject to specific permit emission limitations (other than the general COMAR requirement that uncontrolled emissions are less than 1.0 TPY).

CAM Applicability Summary

All MWC Subpart Cb emission limitations are exempted from CAM based on 40 CFR §64.2(b)(1)(i) since the Cb emissions limitations were promulgated after 1990. The CO, SO₂, and NO_x PSD Permit emission limitations are also exempted from CAM by 40 CFR §64.2(b)(1)(vi) since the Title V Permit already requires continuous compliance determination methods based on CEMS and Department approved methodologies. Compliance with the PSD Permit fluoride emissions limitation does not require a control device (limit is based on no control) so CAM does not apply in accordance with 40 CFR §64.2(a)(2). Insignificant activities are not subject to CAM since there is no specific permit emission limitation for these sources (40 CFR §64.2(a)(1)) and, in any event, uncontrolled emissions are less than the major source threshold levels (40 CFR §64.2(a)(3)). These various exemptions are shown on the attached table. Therefore, based on this CAM Plan Applicability determination, a CAM Plan is not required.

COMPLIANCE SCHEDULE

The Company is currently in compliance with all applicable air quality regulations.

TITLE IV-ACID RAIN

The Acid rain program does not apply to this facility.

TITLE VI-OZONE DEPLETING SUBSTANCES

The Company is not subject to the requirements of Title VI.

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

SECTION 112 (r)–ACCIDENTAL RELEASE

The Company is not subject to the requirements of Section 112 (r).

PERMIT SHIELD

The Company has requested and has been granted a Permit Shield, which cover the applicable requirements identified for the emissions units in the Permittee's Part 70 Permit. Permit shields are granted on an emission unit by emission unit basis.

INSIGNIFICANT ACTIVITIES

This section provides a list of insignificant emissions units that were reported in the Title V permit application. The applicable Clean Air Act requirements, if any, are listed below the insignificant activity.

- (1) No. 1 Stationary internal combustion engines with an output less than 500 brake horsepower (373 kilowatts) and which are not used to generate electricity for sale or for peak or load shaving;

Cummins N-855-F Diesel Engine (fire pump)
rated at 240 BHP at 2100 RPM
Manufacture Date: 10-83

The installation is subject to the following requirements:

- (A) COMAR 26.11.09.05E(2), Emissions During Idle Mode: The Permittee may not cause or permit the discharge of emissions from any engine, operating at idle, greater than 10 percent opacity.
- (B) COMAR 26.11.09.05E(3), Emissions During Operating Mode: The Permittee may not cause or permit the discharge of emissions from any engine, operating at other than idle conditions, greater than 40 percent opacity.
- (C) Exceptions:

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- (i) COMAR 26.11.09.05E (2) does not apply for a period of 2 consecutive minutes after a period of idling of 15 consecutive minutes for the purpose of clearing the exhaust system.
- (ii) COMAR 26.11.09.05E(2) does not apply to emissions resulting directly from cold engine start-up and warm-up for the following maximum periods:
 - (a) Engines that are idled continuously when not in service: 30 minutes,
 - (b) all other engines: 15 minutes.
- (iii) COMAR 26.11.09.05E(2) & (3) do not apply while maintenance, repair or testing is being performed by qualified mechanics.

(D) Requirements from 40 CFR part 63, subpart ZZZZ:

Operation and Maintenance Requirements

§ 63.6602 For an existing emergency stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions, the Permittee must comply with the requirements in item 1 of Table 2c to 40 CFR part 63, subpart ZZZZ as follows:.

1. Change oil and filter every 500 hours of operation or annually, whichever comes first.
2. Inspect air cleaner every 1,000 hours of operation or annually, whichever comes first, and replace as necessary;
3. Inspect all hoses and belts every 500 hours of operation or annually, whichever comes first, and replace as necessary.
4. Minimize the engine's time spent at idle and minimize the engine's startup time at startup to a period needed for appropriate and safe loading of the engine, not to exceed 30 minutes.
5. The Permittee may petition the Administrator pursuant to the requirements of 40 CFR 63.6(g) for alternative work practices.

§ 63.6605(a) requires that the Permittee be in compliance with the applicable requirements in 40 CFR part 63, subpart ZZZZ at all times.

§ 63.6605(b) requires the Permittee to operate and maintain at all times any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

Permittee to make any further efforts to reduce emissions if levels required by this standard have been achieved. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

§ 63.6625(e)(2) The Permittee must operate and maintain the stationary RICE and after-treatment control device (if any) according to the manufacturer's emission-related written instructions or develop your own maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions:

§ 63.6625(f) requires the Permittee to install a non-resettable hour meter if one is not already installed.

§ 63.6640(a) The Permittee must demonstrate continuous compliance with each applicable requirement in Table 2c to 40 CFR part 63, subpart ZZZZ according to methods specified in Table 6 to this subpart.

Table 6, item 9 (existing emergency stationary RICE ≤ 500 HP located at a major source of HAPs) specifies that the Permittee must operate and maintain the fire pump engine according to the manufacturer's emission-related operation and maintenance instructions or develop and follow the Permittee's own maintenance plan which must provide to the extent practicable for the maintenance and operation of the engine in a manner consistent with good air pollution control practice for minimizing emissions.

§63.6640(f)(1) and (f)(2) provide that in order for the engine to be considered an emergency engine under 40 CFR part 63, subpart ZZZZ, any operation other than emergency operation and maintenance or testing, is prohibited. There is no time limit on the use of the engine in emergency situations. The engine may be operated for a maximum of 100 hours per calendar year for maintenance checks and readiness testing, provided that the tests are recommended by federal, state or local government, the manufacturer, the vendor, or the insurance company associated with the engine.

Notification and Reporting Requirements

No notification requirements under §63.6645 or reporting requirements under § 63.6650.

Record Keeping Requirements

§63.6655 (e) Requires the Permittee to keep records of the maintenance conducted on the fire pump engine in order to demonstrate that the fire pump engine was operated and maintained according to the Permittee's own maintenance plan.

§63.6655 (f) Requires the Permittee to keep records of the hours of operation of the fire pump engine that is recorded through the non-resettable hour meter and to document how many hours were spent for emergency operation, including what classified the operation as emergency and how many hours were spent for non-emergency operation.

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

§63.6660 (a) The records must be in a form suitable and readily available for expeditious review according to § 63.10(b)(1).

§63.6660(b) As specified in § 63.10(b)(1), each record must be kept for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

§63.6660 (c) The Permittee must keep each record readily accessible in hard copy or electronic form for at least 5 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1).

(2) ✓ Space heaters utilizing direct heat transfer and used solely for comfort heat;

(3) No. Varies Unheated VOC dispensing containers or unheated VOC rinsing containers of 60 gallons (227 liters) capacity or less;

Parts cleaner and related containers are subject to COMAR 26.11.19.09D, which requires that the Permittee control emissions of volatile organic compounds (VOC) from cold degreasing operations by meeting the following requirements:

- (a) COMAR 26.11.19.09D(2)(b), which establishes that the Permittee shall not use any VOC degreasing material that exceeds a vapor pressure of 1 mm Hg at 20 ° C;
- (b) COMAR 26.11.19.09D(3)(a—d), which requires that the Permittee implement good operating practices designed to minimize spills and evaporation of VOC degreasing material. These practices, which shall be established in writing and displayed such that they are clearly visible to operators, shall include covers (including water covers), lids, or other methods of minimizing evaporative losses, and reducing the time and frequency during which parts are cleaned;
- (c) COMAR 26.11.19.09D(4), which prohibits the use of any halogenated VOC for cold degreasing.

The Permittee shall maintain on site for at least five (5) years, and shall make available to the Department upon request, the following records of operating data:

- (a) Monthly records of the total VOC degreasing materials used; and
- (b) Written descriptions of good operating practices designed to minimize spills and evaporation of VOC degreasing materials.

PART 70 OPERATING PERMIT FACT SHEET

WHEELABRATOR BALTIMORE, L.P.

1801 ANNAPOLIS ROAD

BALTIMORE, MD 21230

PART 70 OPERATING PERMIT NO. 24-510-01886

- (4) ☒ Equipment for drilling, carving, cutting, routing, turning, sawing, planing, spindle sanding, or disc sanding of wood or wood products;
- (5) Containers, reservoirs, or tanks used exclusively for:
- (a) ☐ Dipping operations for applying coatings of natural or synthetic resins that contain no VOC;
- (b) ☐ Dipping operations for coating objects with oils, waxes, or greases, and where no VOC is used;
- (c) ☒ Storage of butane, propane, or liquefied petroleum, or natural gas;
- (d) No. Varies Storage of lubricating oils;
- (e) No. 4 Unheated storage of VOC with an initial boiling point of 300 °F (149 °C) or greater;
- (f) No. 2 Storage of Numbers 1, 2, 4, 5, and 6 fuel oil and aviation jet engine fuel;
- (h) No. Varies The storage of VOC normally used as solvents, diluents, thinners, inks, colorants, paints, lacquers, enamels, varnishes, liquid resins, or other surface coatings and having individual capacities of 2,000 gallons (7.6 cubic meters) or less;
- (6) ☒ First aid and emergency medical care provided at the facility, including related activities such as sterilization and medicine preparation used in support of a manufacturing or production process;
- (7) ☒ Natural draft hoods or natural draft ventilators that exhaust air pollutants into the ambient air from manufacturing/industrial or commercial processes;
- (8) ☒ Laboratory fume hoods and vents;

For the following, attach additional pages as necessary:

- (9) Any other emissions unit, not listed in this section, with a potential to emit less than the “de minimis” levels listed in COMAR 26.11.02.10X (list and describe units):
- No. 4 Storage of silos for lime and activate carbon used as reagents in air pollution control devices
- No. 3 Wet scrubbers used for ventilation of ash handling area, ash load out, and ash trammels area.

PART 70 OPERATING PERMIT FACT SHEET
WHEELABRATOR BALTIMORE, L.P.
1801 ANNAPOLIS ROAD
BALTIMORE, MD 21230
PART 70 OPERATING PERMIT NO. 24-510-01886

STATE ONLY ENFORCEABLE CONDITIONS

The Permittee is subject to the following State-only enforceable requirements:

A. Control of Nuisance Emissions

COMAR 26.11.06.08 and .09 which generally prohibit the discharge of emissions beyond the property line in such a manner that a nuisance or air pollution is created.

The refuse holding pit shall be maintained under negative pressure and the exhausted air shall be combined with the primary combustion air to minimize odors [Authority: NSINA Approval 83-01, Condition (5)]

B. Control of Air toxics

COMAR 26.11.15.05 - New or Reconstructed Installations. A person may not construct, reconstruct, operate, or cause to be constructed, reconstructed, or operated, any new installation or source that will discharge a toxic air pollutant to the atmosphere without installing and operating T-BACT.

C. Control of Air Toxics Cont'd

COMAR 26.11.15.06 - Except as provided in §A(2) of this regulation, a person may not construct, modify, or operate, or cause to be constructed, modified, or operated, any new installation or source without first demonstrating to the satisfaction of the Department using procedures established in this chapter that total allowable emissions from the premises of each toxic air pollutant discharged by the new installation or source will not unreasonably endanger human health.

D. Restrictions on materials in the waste stream

The Permittee shall monitor the material in its waste stream in accordance with Department approved procedures to comply with the following waste restrictions:

- (1) Municipal Solid Waste may include certain 'solid waste generated from industrial, institutional, and commercial facilities such as trimmings, off-specification products, and similar materials. Hazardous wastes, and infectious medical wastes must be excluded.
- (2) Infectious medical waste may not be stored, burned, or disposed of at this facility; and
- (3) Off-spec and outdated pharmaceuticals may be burned at the facility provided that the burning does not cause a violation of any standard or operating requirement.

Exhibit C



Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

JAN 10 2013

Mr. Shawn M. Garvin
Regional Administrator (3RA00)
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia PA 19103-2029

Dear Mr. ^{Shawn} Garvin:

The purpose of this letter is to submit Maryland's 111(d)/129 regulation and Plan (MD Submittal # 12-11) concerning Maryland's adoption of EPA's Emission Guidelines (EG) for hospital, medical, infectious and medical waste incinerators (HMIWI). This action includes:

- (1) amendments to Regulations .01, .02, and .08-1 and adoption of new Regulation .08-2 under COMAR 26.11.08 Control of Incinerators;
- (2) amendments to new Regulation .08-2 under COMAR 26.11.08 Control of Incinerators; and
- (3) Maryland's 111(d)/129 Plan for Hospital, Medical and Infectious Waste Incinerators.

Part 1 of this submittal includes amendments to Regulations .01, .02, and .08-1 and adoption of new Regulation .08-2 under COMAR 26.11.08 Control of Incinerators. The Notice of Proposed Action was published in the Maryland Register on December 2, 2011. A public hearing was held on January 11, 2012. The action was adopted on March 7, 2012. The Notice of Final Action was published on March 23, 2012 and the new regulation and amendments became effective on April 2, 2012.

Part 2 of this submittal includes Maryland's HMIWI 111(d)/129 Plan and amendments to Regulation .08-2 under COMAR 26.11.08 Control of Incinerators. An Emergency Action for the amendments became effective on July 4, 2012. The Notice of Proposed Action was published in the Maryland Register on August 10, 2012. A public hearing was held on these amendments and on the 111(d) plan on September 12, 2012. The amendments were adopted on October 23, 2012. The Notice of Final Action for the amendments was published on November 16, 2012 and the amendments became effective on November 26, 2012.

All administrative procedures were properly followed throughout the adoption process for the regulations and amendments.

I certify that the electronic copy of this 111(d)/129 submittal (enclosed) is an exact duplicate of the official hard copy. If you have any questions concerning this submittal, please feel free to call me at (410) 537-3084 or Mr. George (Tad) S. Aburn, Jr., Director of the Air and Radiation Management Administration, at (410) 537-3255.

Sincerely,

Robert M. Summers, Ph.D.
Secretary

Enclosure





Martin O'Malley
Governor
Anthony G. Brown
Lt. Governor

Richard Eberhart Hall
Secretary
Matthew J. Power
Deputy Secretary

December 28, 2011

Ms. Deborah Rabin
Coordinator, Air & Radiation Management Administration
Maryland Department of the Environment
Suite 730
1800 Washington Boulevard
Baltimore, MD 21230

STATE CLEARINGHOUSE REVIEW PROCESS

State Application Identifier: MD20111228-0908

Project Description: Proposed amendments to air-quality regulations: ctg on work-practice standards; HMIWI; NESHAP/NSPS; vehicle refinishing; EPA Biogenic CO2 Deferral rule: Public Hearing on 1/11/2012

Project Location: Statewide

Clearinghouse Contact: Bob Rosenbush

Dear Ms. Rabin:

Thank you for submitting your project for intergovernmental review. Participation in the Maryland Intergovernmental Review and Coordination (MIRC) process helps ensure project consistency with plans, programs, and objectives of State agencies and local governments.

Notice of your application is being provided to State and local public officials through the Intergovernmental Monitor, which is a database of projects received by the State Clearinghouse for Intergovernmental Assistance. This information may be viewed at <http://planning.maryland.gov/emircpublic/>. The project has been assigned a unique State Application Identifier that should be used on all documents and correspondence.

One form is enclosed with this letter. The "Project Status Form" should be completed and returned after you receive notice that your project was approved or disapproved.

All MIRC requirements have been met in accordance with Code of Maryland Regulations (COMAR 34.02.01.04-.06) and this concludes the review process for the above referenced project. If you need assistance or have questions, contact the State Clearinghouse staff person noted above at 410-767-4490 or through e-mail at brosenbush@mdp.state.md.us. Thank you for your cooperation with the MIRC process.

Sincerely,

Linda C. Janey, J.D., Assistant Secretary

LCJ:BR
Enclosure
cc: Kathleen Blinbury - U.S. Environmental Protection Agency

11-0908_OLRR.OTH.doc

From: Debbie Rabin
To: All County Environmental Health Directors; All County Health Officers; ...
CC: Angelo Bianca; Tad Aburn
Date: 12/8/2011 4:12 PM
Subject: NOTICE OF PUBLIC HEARINGS - Please Confirm Receipt

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
AIR & RADIATION MANAGEMENT ADMINISTRATION
NOTICE OF PUBLIC HEARINGS**

The Maryland Department of the Environment gives notice of public hearings concerning proposed amendments to air quality regulations. The proposed actions are briefly described below:

1. Proposal to amend Regulation .04 under COMAR 26.11.01 General Administrative Provisions, and Regulation .02 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

The purpose of this action is to adopt the requirements of the Environmental Protection Agency's (EPA's) Control Techniques Guidelines (CTG) standards regarding work practice standards and apply them to a variety of CTG regulations under COMAR 26.11.19. This action will be submitted to the EPA for approval as part of Maryland's State Implementation Plan (SIP).

2. Proposal to amend Regulation .01 under COMAR 26.11.01 General Administrative Provisions, Regulation .01 under COMAR 26.11.02 Permits, Approvals, and Registration, and Regulation .14 under COMAR 26.11.06 General Emissions Standards, Prohibitions, and Restrictions.

The purpose of this action is to implement EPA's action to defer, for a period of three years, the Prevention of Significant Deterioration (PSD) and Title V permitting requirements related to carbon dioxide (CO₂) emissions from bioenergy and other biogenic stationary sources (biogenic CO₂). This will allow EPA to resolve technical issues so that biogenic CO₂ can be accounted for properly. The appropriate parts of this action will be submitted to EPA for approval as part of Maryland's State Implementation Plan and Title V Program. The Department will request approval of the regulations in their entirety.

3. Proposal to repeal existing Regulation .23 and adopt new Regulation .23 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

The purpose of this action is to establish operating standards for vehicle refinishing facilities in Maryland. The regulation establishes VOC content limits for coatings and solvents used during the preparation, application, and drying phases of vehicle refinishing, coating application standards, work practices standards, and monitoring and recordkeeping standards. This action will be submitted to the EPA for approval as part of Maryland's SIP.

4. Proposal to amend Regulation .01 under COMAR 26.11.01 General Administrative Provisions, and Regulation .12 under COMAR 26.11.06 General Emission Standards, Prohibitions, and Restrictions.

The purpose of this action is to (1) update the definition of National Emission Standards for Hazardous Air Pollutants source (NESHAP source) under COMAR 26.11.01B(21)(b), (2) update the definition of New Source Performance Standard source (NSPS source) under COMAR 26.11.01B(23), and (3) update a cross reference to the NSPS definition in COMAR 26.11.06.12. Maryland will be requesting delegation to implement and enforce the NESHAP and NSPS requirements specified in this action.

5. Proposal to amend Regulations .01, .02, .08-1, and adopt new Regulation .08-2 under COMAR 26.11.08 Control of Incinerators.
- The purpose of this action is to adopt the requirements of the EPA's Emission Guidelines (EG) for hospital, medical, infectious and medical waste incinerators (HMIWI). This action will be submitted to the EPA for approval as a revision to Maryland's 111(d) Plan.

The full text of these proposed actions appeared in the **Maryland Register** on **December 2, 2011**.

The technical support documents (TSDs) are available for public review on the Maryland Department of the Environment's website at the following address: <http://www.mde.state.md.us/aboutmde/pages/reqcomments.aspx>

The proposed action and supporting documents are also available for review at the following locations: the Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Please make these materials available in your office for public review.

A public hearing on the proposed actions will be held on **January 11, 2012** at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720.

Interested persons are invited to attend and express their views. Comments may be mailed to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us, or faxed to (410) 537-4223. Comments must be received not later than

January 11, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

From: Debbie Rabin
To: Ali Mirzakhalli; Cecily Beall; Diana Esher; John Benedict; Joyce Ep...
CC: Angelo Bianca; Chris Cripps; Hal Frankford; Kathleen Cox; Marcia Spi...
Date: 12/8/2011 4:08 PM
Subject: NOTICE OF PUBLIC HEARINGS - Please Confirm Receipt

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
AIR & RADIATION MANAGEMENT ADMINISTRATION
NOTICE OF PUBLIC HEARINGS**

The Maryland Department of the Environment gives notice of public hearings concerning proposed amendments to air quality regulations. The proposed actions are briefly described below:

1. Proposal to amend Regulation .04 under COMAR 26.11.01 General Administrative Provisions, and Regulation .02 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

The purpose of this action is to adopt the requirements of the Environmental Protection Agency's (EPA's) Control Techniques Guidelines (CTG) standards regarding work practice standards and apply them to a variety of CTG regulations under COMAR 26.11.19. This action will be submitted to the EPA for approval as part of Maryland's State Implementation Plan (SIP).

2. Proposal to amend Regulation .01 under COMAR 26.11.01 General Administrative Provisions, Regulation .01 under COMAR 26.11.02 Permits, Approvals, and Registration, and Regulation .14 under COMAR 26.11.06 General Emissions Standards, Prohibitions, and Restrictions.

The purpose of this action is to implement EPA's action to defer, for a period of three years, the Prevention of Significant Deterioration (PSD) and Title V permitting requirements related to carbon dioxide (CO₂) emissions from bioenergy and other biogenic stationary sources (biogenic CO₂). This will allow EPA to resolve technical issues so that biogenic CO₂ can be accounted for properly. The appropriate parts of this action will be submitted to EPA for approval as part of Maryland's State Implementation Plan and Title V Program. The Department will request approval of the regulations in their entirety.

3. Proposal to repeal existing Regulation .23 and adopt new Regulation .23 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

The purpose of this action is to establish operating standards for vehicle refinishing facilities in Maryland. The regulation establishes VOC content limits for coatings and solvents used during the preparation, application, and drying phases of vehicle refinishing, coating application standards, work practices standards, and monitoring and recordkeeping standards. This action will be submitted to the EPA for approval as part of Maryland's SIP.

4. Proposal to amend Regulation .01 under COMAR 26.11.01 General Administrative Provisions, and Regulation .12 under COMAR 26.11.06 General Emission Standards, Prohibitions, and Restrictions.

The purpose of this action is to (1) update the definition of National Emission Standards for Hazardous Air Pollutants source (NESHAP source) under COMAR 26.11.01B(21)(b), (2) update the definition of New Source Performance Standard source (NSPS source) under COMAR 26.11.01B(23), and (3) update a cross reference to the NSPS definition in COMAR 26.11.06.12. Maryland will be requesting delegation to implement and enforce the NESHAP and NSPS requirements specified in this action.

5. Proposal to amend Regulations .01, .02, .08-1, and adopt new Regulation .08-2 under COMAR 26.11.08 Control of Incinerators. The purpose of this action is to adopt the requirements of the EPA's Emission Guidelines (EG) for hospital, medical, infectious and medical waste incinerators (HMIWI). This action will be submitted to the EPA for approval as a revision to Maryland's 111(d) Plan.

The full text of these proposed actions appeared in the Maryland Register on **December 2, 2011**.

The technical support documents (TSDs) are available for public review on the Maryland Department of the Environment's website at the following address: <http://www.mde.state.md.us/aboutmde/pages/reqcomments.aspx>

The proposed action and supporting documents are also available for review at the following locations: the Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

A public hearing on the proposed actions will be held on **January 11, 2012** at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720.

Interested persons are invited to attend and express their views. Comments may be mailed to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us, or faxed to (410) 537-4223. Comments must be received not later than

January 11, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

**Statement of the Air and Radiation Management Administration
Department of the Environment
for the Public Hearing Relating to Proposed
Amendments to COMAR 26.11.08 Control of Incinerators
held on January 11, 2012 Baltimore, MD**

My name is Husain Waheed. I am a Senior Regulatory and Compliance Engineer with the Regulation Development Division of the Air and Radiation Management Administration, Department of the Environment.

This public hearing is being held pursuant to the requirements of 40 CFR Section 51.102 and Sections 2-301 et.seq. of the Environment Article, Annotated Code of Maryland. It is also being held in conformance with the State Administrative Procedures Act under the State Government Article, beginning at Section 10-101.

Notice of this hearing appeared in the:

Maryland Register on December 2, 2011; and
MDE's website from December 8, 2011 through January 11, 2012.

Copies of these notices were submitted for the record.

Copies of the proposed action and supporting documents were submitted for review to the State Clearinghouse and are also submitted at this time into the hearing record. Copies were also made available for public inspection at the Air and Radiation Management Administration offices in Baltimore, Cumberland, and Salisbury, and at all local health departments or local air quality control offices.

The purpose of today's hearing is to give the public an opportunity to comment on the proposed amendments to COMAR 26.11.08 Control of Incinerators.

Summary

The proposed amendments adopt the requirements of the EPA's Emission Guidelines (EG) for hospital, medical, infectious and medical waste incinerators (HMIWI). EPA is required to develop and adopt new source performance standards (NSPS) and EG for solid waste incineration units pursuant to CAA Sections 111 and 129. Maximum achievable control technology standards for existing HMIWI are set in EG for particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/ dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NOX); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO₂). The standards are applicable based on the year of construction or modification of the incinerator. Affected sources have to comply with the standards by October 6, 2014 at the latest.

Maryland's 111(d)/129 State Implementation Plan (SIP)

These amendments and new regulation will be submitted to the EPA for approval as part of the 111(d)/129 SIP.

Consideration of Comments

The Department will consider all comments before making a decision to adopt these amendments.

MARYLAND DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION MANAGEMENT ADMINISTRATION

PUBLIC HEARING
CONCERNING PROPOSED AMENDMENTS TO COMAR 26.11.08
CONCERNING HMIWI REQUIREMENTS

The hearing in the above matter commenced on
Wednesday, January 11, 2012, at the MDE Headquarters,
Montgomery Park, 1800 Washington Boulevard, Baltimore,
Maryland.

BEFORE: DEBORAH RABIN, Hearing Officer

Reported by: Linda Metcalf

A P P E A R A N C E S

ON BEHALF OF THE MARYLAND DEPARTMENT OF THE ENVIRONMENT:

DEBORAH RABIN

Regulations Coordinator
Air and Radiation Management Administration
Maryland Department of the Environment
1800 Washington Boulevard, Suite 730
Baltimore, Maryland 21230

HUSAIN WAHEED

Senior Regulatory and Compliance Engineer
Air and Radiation Management Administration
Regulation Development Division
Maryland Department of the Environment
1800 Washington Boulevard, Suite 730
Baltimore, Maryland 21230

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I N D E X

<u>Speaker:</u>	<u>Page:</u>
Deborah Rabin	4
Husain Waheed	5

P R O C E E D I N G S

MS. RABIN: Good morning. On behalf of the Department of the Environment and the Air and Radiation Management Administration, I would like to welcome you to this public hearing.

My name is Deborah Rabin and I am the Regulations Coordinator for the Air and Radiation Management Administration. I will serve as hearing officer for today's hearing.

I would like to ask all of you in attendance today to please sign in, if you haven't already done so. This will help us to keep an accurate record of the people who participate in the hearing. Also, copies of our regulation proposal, support documents, and the Department's statement are available on the table for your information.

This hearing concerns Air Quality Regulations found in the Code of Maryland Regulations, Title 26, Subtitle 11, Air Quality. The Secretary of the Department proposes to amend Regulations .01, .02, and .08-1, and adopt new Regulation .08-2 under COMAR

1 26.11.08, Control of Incinerators.

2 The purpose of this hearing is to give you an
3 opportunity to comment on this action.

4 The Opportunity for Public Comment for this
5 proposed action appeared in the Maryland Register, Volume
6 38, Issue 25, Page 1652 on December 2, 2011.

7 The hearing will proceed in the following
8 order. First, Mr. Husain Waheed will make a statement on
9 behalf of the Air and Radiation Management
10 Administration. After Mr. Waheed is finished, I will
11 call on any elected official or government official who
12 wants to make a statement. Then, I will call upon anyone
13 else who indicated on the sign-in sheet that he or she
14 would like to make a statement.

15 When giving your statement, please
16 identify yourself and your affiliation, and give
17 your statement loudly and clearly. Are there any
18 questions?

19 I will now call on Mr. Waheed.

20 MR. WAHEED: My name is Husain Waheed. I am
21 submitting the Department's statement for the public
22 hearing to the record.

**Statement of the Air and Radiation
Management Administration
Department of the Environment
for the Public Hearing Relating to Proposed
Amendments to COMAR 26.11.08 Control of Incinerators
held on January 11, 2012 Baltimore, MD**

My name is Husain Waheed. I am a Senior
Regulatory and Compliance Engineer with the Regulation
Development Division of the Air and Radiation Management
Administration, Department of the Environment.

This public hearing is being held pursuant to
the requirements of 40 CFR Section 51.102 and Sections 2-
301 et.seq. of the Environment Article, Annotated Code of
Maryland. It is also being held in conformance with the
State Administrative Procedures Act under the State
Government Article, beginning at Section 10-101.

Notice of this hearing appeared in the:
Maryland Register on December 2, 2011; and MDE's website
from December 8, 2011 through January 11, 2012.

Copies of these notices were submitted for the
record.

For The Record, Inc.
(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 Copies of the proposed action and supporting
2 documents were submitted for review to the State
3 Clearinghouse and are also submitted at this time into
4 the hearing record. Copies were also made available for
5 public inspection at the Air and Radiation Management
6 Administration offices in Baltimore, Cumberland, and
7 Salisbury, and at all local health departments or local
8 air quality control offices.

9 The purpose of today's hearing is to give the
10 public an opportunity to comment on the proposed
11 amendments to COMAR 26.11.08 Control of Incinerators.

12 **Summary**

13 The proposed amendments adopt the requirements
14 of the EPA's Emission Guidelines (EG) for hospital,
15 medical, infectious and medical waste incinerators
16 (HMIWI). EPA is required to develop and adopt new source
17 performance standards (NSPS) and EG for solid waste
18 incineration units pursuant to CAA Sections 111 and 129.
19 Maximum achievable control technology standards for
20 existing HMIWI are set in EG for particulate matter (PM);
21 heavy metals, including lead (Pb), cadmium (Cd), and
22 mercury (Hg); toxic organics, including chlorinated

1 dibenzo-p-dioxins/dibenzofurans (CDD/CDF); carbon
2 monoxide (CO); nitrogen oxides (NOX); and acid gases,
3 including hydrogen chloride (HCl) and sulfur dioxide
4 (SO2). The standards are applicable based on the year of
5 construction or modification of the incinerator.
6 Affected sources have to comply with the standards by
7 October 6, 2014 at the latest.

8 **Maryland's 111(d)/129 State Implementation Plan (SIP)**

9 These amendments and new regulation will be
10 submitted to the EPA for approval as part of the
11 111(d)/129 SIP.

12 **Consideration of Comments**

13 The Department will consider all comments
14 before making a decision to adopt these amendments.

15 _____

16 MS. RABIN: Thank you, Mr. Waheed. Please let
17 the record show that no one has come to attend this
18 public hearing.

19 This will conclude the public hearing regarding
20 proposed amendments to Regulations .01, .02, .08-1, and
21 new Regulation .08-2 under COMAR 26.11.08, Control of
22 Incinerators.

1 Please let the record reflect that it is now
2 10:43 and this hearing is officially concluded.

3 **(Whereupon, the hearing was concluded.)**

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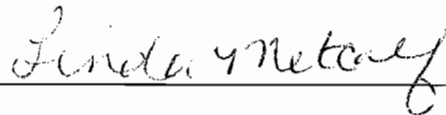
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CERTIFICATE OF COURT REPORTER

I, Linda Metcalf, do hereby certify that the foregoing transcription was reduced to typewriting via audiotapes recorded by me; that I am neither counsel for, nor related to, nor employed by any of the parties to the case in which these proceedings were transcribed; that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

A handwritten signature in cursive script, reading "Linda Metcalf", is written over a horizontal line.

LINDA METCALF

Court Reporter

Subtitle 11 AIR QUALITY

26.11.08 Control of Incinerators

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 2-406, 10-102, and 10-103, Annotated Code of Maryland

Notice of Final Action

[11-349-F]

On March 7, 2012, the Secretary of the Environment adopted amendments to Regulations .01, .02, and .08-1 and new Regulation .08-2 under **COMAR 26.11.08 Control of Incinerators**. This action, which was proposed for adoption in 38:25 Md. R. 1651—1659 (December 2, 2011), has been adopted with the nonsubstantive changes shown below.

Effective Date: April 2, 2012.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

COMAR 26.11.08.08-2G(1): This change removes an incorrect reference.

COMAR 26.11.08-2G(2) and H(1): The date has been changed to April 30, 2012 to reflect the effective date of this regulation, and the time needed for compliance.

.08-2 Emission Standards and Requirements for HMIWIs Under 40 CFR 60 Subpart Ce as Revised October 6, 2009.

A. — F. (proposed text unchanged)

G. HMIWI Shutdown.

(1) *A person who owns or operates a HMIWI and plans to shutdown rather than comply with the requirements of this regulation and amended 40 CFR Part 60 Subpart Ce shall cease operations by June 15, 2012, but not later than October 6, 2014, as provided in [[§]]§G(2) [[and (3)]] of this regulation.*

(2) *A request for an extension of the June 15, 2012 cease operation deadline shall be submitted to the Department by [[December 15, 2011]] April 30, 2012 and contain the following information:*

(a) — (c) (proposed text unchanged)

H. *Shut-Down Extension Requests for the Installation of Alternative Treatment Technologies. A person who owns or operates an HMIWI and requests an extension to install alternative treatment technologies shall:*

(1) *Submit by [[December 15, 2011]] April 30, 2012 a request to the Department to install alternative treatment technology;*

(2) — (5) (proposed text unchanged)

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Title 30

MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS (MIEMSS)

Subtitle 01 GENERAL

30.01.02 Documents Incorporated by Reference

Authority: Education Article, §13-516, Annotated Code of Maryland

Notice of Final Action

[12-022-F-I]

On March 13, 2012, the Maryland Emergency Medical Services Board adopted amendments to Regulation .01 under **COMAR 30.01.02 Documents Incorporated by Reference**. This action was taken at a public meeting, notice of which was given by publication in 39:4 Md. R. 356 (February 24, 2012) pursuant to State Government Article, §10-506(c), Annotated Code of Maryland. This action, which was proposed for adoption in 39:1 Md. R. 71 (January 13, 2012), has been adopted with the nonsubstantive changes shown below.

Effective Date: April 2, 2012.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

Regulation .01: Correction of typographical error in edition date for Maryland Medical Protocols for Emergency Medical Services Providers.

.01 Incorporation by Reference.

A. (proposed text unchanged)

B. Documents Incorporated.

(1) "Maryland Medical Protocols for Emergency Medical Services Providers (MIEMSS July [[12]] L. 2011 Edition)". This document can be obtained through the Maryland Institute for Emergency Medical Services Systems at 653 W. Pratt Street, Baltimore, Maryland 21201 (410-706-4449).

(2) — (3) (proposed text unchanged)

ROBERT R. BASS, M.D.
Executive Director
Maryland Institute for Emergency Medical Services Systems

NO ONE ATTENDED THE PUBLIC HEARING

AND

NO COMMENTS WERE RECEIVED
DURING THE 30-DAY COMMENT PERIOD

Subtitle 11 AIR QUALITY

26.11.08 Control of Incinerators

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 2-406, 10-102, and 10-103, Annotated Code of Maryland

Notice of Proposed Action

[11-349-P]

The Secretary of the Environment proposes to amend Regulations .01, .02, and .08-1 and adopt new Regulation .08-2 under **COMAR 26.11.08 Control of Incinerators**.

Statement of Purpose

The purpose of this action is to adopt the requirements of the EPA's Emission Guidelines (EG) for hospital, medical, infectious and medical waste incinerators (HMIWI). EPA develops EGs as guidance on control requirements. States can follow the EGs or adopt more restrictive standards. MDE proposes to adopt standards for HMIWI consistent with the EGs for incinerators. The proposed standards will reduce emissions from the combustion of hospital, medical, infectious and medical waste. These amendments affect hospital, medical, infectious and medical waste incinerators and require full compliance with the proposed standards no later than October 6, 2014.

The regulation will be submitted to the U.S. EPA for approval as a revision to Maryland's 111(d) Plan.

Background

EPA is required to develop and adopt new source performance standards (NSPS) and EG for solid waste incineration units pursuant to the Clean Air Act (CAA) Sections 111 and 129. New sources (NSPS program) are regulated under Sections 111(b) and 129(a) of the CAA. Existing sources are regulated under Sections 111(d) and 129(b) of the CAA. The NSPS are directly enforceable Federal regulations, and under CAA Section 129(f)(1) become effective 6 months after promulgation. Under CAA Section 129(f)(2), the EG become effective and enforceable as expeditiously as practicable after EPA approves a State plan implementing the EG but no later than 3 years after such approval or 5 years after the date the EG are promulgated, whichever is earlier.

Hospital waste consists of discards generated at a hospital, and medical/infectious waste is generated in the diagnosis, treatment, or immunization of human beings or animals, in research, or in the production or testing of biologicals. Household or hazardous waste, or human and animal remains not generated as medical waste are not included.

Maximum achievable control technology standards for existing HMIWI are established by the EG for particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/ dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NO_x); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO₂).

Affected Sources and Location

The proposed amendments affect HMIWIs in Maryland.

Requirements

The standards must be met no later than October 6, 2014 and are applicable to HMIWIs in the following categories:

1. Small, medium, and large HMIWIs for which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification commenced after March 16, 1998 but no later than April 6, 2010.

2. Small, medium, and large HMIWIs for which construction was commenced on or before June 20, 1996 or for which modification commenced on or before March 16, 1998.

3. Small rural area HMIWI for which construction commenced on or before June 20, 1996 or for which modification was commenced on or before March 16, 1998.

4. Small rural area HMIWI for which construction commenced after June 20, 1996 but no later than December 1, 2008 or for which modification was commenced after March 16, 1998 but no later than April 6, 2010.

Expected Emissions Reductions

Minimal emissions reductions from existing sources in Maryland are expected as a result of adopting the proposed standards. Maryland sources have already applied control technologies to the incineration process and to post incineration emissions. Integration and optimization of the performance of these technologies has also taken place. Controls such as tertiary combustion chamber, dry injection acid gas scrubber, powder activated carbon system, and fabric filter with passive dioxins/furans control are utilized. Maryland sources have already been controlled under COMAR 26.11.08.08-1, in conformance with the initial 1997 MACT standards.

In the MACT review process for the 2009 standards, performance and test results of all sources nationwide were taken into account. Since Maryland sources have already added control technologies, they perform well on a national level and stack test results show that their performance is currently very close to the 2009 MACT standards. Based on the emission levels during stack tests, Maryland HMIWIs would be able to meet most of the standards with the current technologies. For NO_x and HCL further improvements and enhancements would have to be investigated and tested. Emission reductions are expected as a result of adopting these two standards in particular. Emissions are expected to be minimally reduced for the remaining pollutants as a result of implementing the proposed standards. The benefit will be provided throughout the year by reducing criteria pollutants and toxic emissions.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

I. Summary of Economic Impact. The economic impact of these amendments has been estimated by EPA on a national level. Cost impact on sources that are owned by hospitals is expected to range between 0.1 to 0.9 percent of sales (an average cost for incinerator would be approximately \$250,000 — \$280,000 per year in the first three years). Commercial incinerators have cost impacts that are no more than 2 percent of sales. The economic impact on the Department is going to be minimal in modifying the standards and ensuring compliance. There will be minimal to no impact on other state agencies and local jurisdictions as some permitting work may be necessary.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-) Magnitude	
A. On issuing agency:	(E+)	Minimal
B. On other State agencies:	(E+)	Minimal
C. On local governments:	(E+)	Minimal

PROPOSED ACTION ON REGULATIONS

1652

	Benefit (+) Cost (-)	Magnitude
<hr/>		
D. On regulated industries or trade groups:		
(1) Sources owned by hospitals	(-)	0.1 to 0.9 percent of sales
(2) Commercial incinerators	(-)	No more than 2 percent of sales
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Unable to estimate

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. The Department will modify standards and ensure compliance.

B. Some permitting work may be necessary, but there will be minimal to no impact on other State agencies.

C. Some permitting work may be necessary, but there will be minimal to no impact on local governments.

D(1). Avg. cost incinerator approx. \$250,000 — \$280,000/yr 1st 3 yrs.

D(2). EPA cost estimate upon affected industry.

F. This action will reduce emissions of criteria pollutants and toxic emissions, having a positive impact on public health.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

This action will have a positive impact on individuals with disabilities involving respiratory problems by reducing air pollutants that contribute to disease.

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on January 11, 2012 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than January 11, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) *Bag Leak Detection System.*

(a) "Bag leak detection system" means an instrument that is capable of monitoring PM loadings in the exhaust of a fabric filter in order to detect bag failures.

(b) "Bag leak detection system" includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light-transmittance, or other effects to monitor relative PM loadings.

[(1)] (1-1) (text unchanged)

(2) — (7) (text unchanged)

(7-1) "Commercial HMIWI" means a HMIWI which offers incineration services for hospital/medical/infectious waste generated off site by firms unrelated to the firm that owns the HMIWI.

(8) — (39) (text unchanged)

(40) "Minimum reagent flow rate" means 90 percent of the highest 3-hour average reagent flow rate at the inlet to the selective noncatalytic reduction technology (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the NO_x emissions limit.

[(40)] (40-1) (text unchanged)

(41) (text unchanged)

(42) "Minimum secondary chamber temperature" means 90 percent of the highest 3-hour average secondary chamber temperature (taken, at a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM, CO, [or] and dioxin/furan emission limits.

(43) — (61) (text unchanged)

.02 Applicability.

A.—H. (text unchanged)

I. All provisions of Regulation .08-1 of this chapter and the related HMIWI 111(d)/129 plan approval, 40 CFR Part 62, Subpart V, are applicable, except as amended or revised under Regulation .08-2 of this chapter and approved by EPA as part of the Maryland HMIWI 111(d)/129 plan.

.08-1 Emission Standards and Requirements for HMIWIs.

A. Emission Standards.

(1) The emission standards and requirements in §A(2)—[(6)] (7) of this regulation apply to a person who owns or operates an HMIWI other than a small rural area HMIWI.

(2) The emission limits of this regulation and 40 CFR §§62.5160 and 62.5161, apply to a person who owns and operates a small, medium, or large HMIWI for which construction was commenced on or before June 20, 1996 or for which modification commenced on or before March 16, 1998, and remain applicable until such HMIWI comes into full and final compliance in accordance with Regulation .08-2 of this chapter and its related 111(d)/129 plan revision.

[(2)] (3) — [(6)] (7) (text unchanged)

B. Emission Limits and Requirements for Small Rural Area HMIWIs.

(1) The emission limits and requirements in §B(2)—(6) of this regulation apply to a person who owns or operates a small rural area HMIWI, and remain applicable until such HMIWI comes into full and final compliance in accordance with Regulation .08-2 of this chapter and its related 111(d)/129 plan revision.

(2) — (3) (text unchanged)

C. — D. (text unchanged)

PROPOSED ACTION ON REGULATIONS

1653

.08-2 Emission Standards and Requirements for HMIWIs Under 40 CFR 60 Subpart Ce as Revised October 6, 2009.

A. *Applicability and Emission Standards.* Notwithstanding the requirements of Regulation .08-1 of this chapter, the emission standards and requirements of §B(1) — (7) and §C(1) — (6) of this regulation apply to a person who owns or operates an HMIWI subject to 40 CFR Part 60, Subpart Ce, as revised, October 6, 2009.

B. *Emission Limits and Requirements for Small, Medium, and Large HMIWIs.*

(1) A person who owns or operates a small, medium, or large HMIWI for which construction was commenced on or before June 20, 1996 or for which modification commenced on or before March 16, 1998 shall comply with the following emission limits.

Pollutant	Units (7 percent oxygen, dry basis)	Emission limits			Test Method	Averaging Time ¹
		Small	Medium	Large		
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	66 (0.029)	46 (0.020)	25 (0.011)	EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA reference Method 26A or 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Opacity	6 minute block average percent	10	10	10	EPA Method 9 and PM CEMS. Alternative use of PM CEMS as stipulated under 40 CFR §60.56c(b)(9) in lieu of EPA Method 9, Appendix A-4 or Bag leak detection system	6 minute block average
Carbon monoxide	Parts per million by volume	20	5.5	11	EPA Reference Method 10 of Appendix A-4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	16 (7.0) or 0.013 (0.0057)	0.85 (0.37) or 0.020 (0.0087)	9.3 (4.1) or 0.054 (0.024)	EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60	3 run average (4 hr minimum sample time per run)
Hydrogen chloride	Parts per million by volume	44	7.7	6.6	EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)

PROPOSED ACTION ON REGULATIONS

1654

<i>Sulfur dioxide</i>	<i>Parts per million by volume</i>	<i>4.2</i>	<i>4.2</i>	<i>9.0</i>	<i>EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Nitrogen oxides</i>	<i>Parts per million by volume</i>	<i>190</i>	<i>190</i>	<i>140</i>	<i>EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Lead</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>0.31 (0.14)</i>	<i>0.018 (0.0079)</i>	<i>0.036 (0.016)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Cadmium</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>0.017(0.0074)</i>	<i>0.013(0.0057)</i>	<i>0.0092(0.0040)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Mercury</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>0.014(0.0061)</i>	<i>0.025(0.011)</i>	<i>0.018(0.0079)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>

¹Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

(2) A person who owns or operates a small, medium, or large HMIWI for which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification commenced after March 16, 1998 but no later than April 6, 2010, shall comply with the following emission limits.

<i>Pollutant</i>	<i>Units (7 percent oxygen, dry basis)</i>	<i>Emission limits HMIWI size</i>			<i>Test Method</i>	<i>Averaging Time¹</i>
		<i>Small</i>	<i>Medium</i>	<i>Large</i>		
<i>Particulate matter</i>	<i>Milligrams per dry standard cubic meter (grains per dry standard cubic foot)</i>	<i>66 (0.029)</i>	<i>34 (0.015)</i>	<i>25 (0.011)</i>	<i>EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA reference Method 26A or 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Opacity</i>	<i>6 minute block average percent</i>	<i>6</i>	<i>6</i>	<i>6</i>	<i>EPA Method 9 and PM CEMS. Alternative use of PM CEMS as stipulated under 40 CFR §60.56c(b)(9) in lieu of EPA Method 9, Appendix A-4 or Bag leak detection system</i>	<i>6 minute block average</i>
<i>Carbon monoxide</i>	<i>Parts per million by volume</i>	<i>20</i>	<i>5.5</i>	<i>11</i>	<i>EPA Reference Method 10 of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>

PROPOSED ACTION ON REGULATIONS

1655

<i>Dioxins/furans</i>	<i>Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)</i>	<i>16 (7.0) or 0.013 (0.0057)</i>	<i>0.85 (0.37) or 0.020 (0.0087)</i>	<i>9.3 (4.1) or 0.054 (0.024)</i>	<i>EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60</i>	<i>3 run average (4 hr minimum sample time per run)</i>
<i>Hydrogen chloride</i>	<i>Parts per million by volume or percent reduction</i>	<i>15 or 99%</i>	<i>7.7</i>	<i>6.6</i>	<i>EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Sulfur dioxide</i>	<i>Parts per million by volume</i>	<i>4.2</i>	<i>4.2</i>	<i>9.0</i>	<i>EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Nitrogen oxides</i>	<i>Parts per million by volume</i>	<i>190</i>	<i>190</i>	<i>140</i>	<i>EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Lead</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>0.31 (0.14)</i>	<i>0.018 (0.0079)</i>	<i>0.036 (0.016)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Cadmium</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>0.017 (0.0074)</i>	<i>0.013 (0.0057)</i>	<i>0.0092 (0.0040)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Mercury</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>0.014 (0.0061)</i>	<i>0.025 (0.011)</i>	<i>0.018 (0.0079)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>

¹Except as allowed under 40 CFR §60.56(c) for HMIWI equipped with CEMS.

(3) Waste Management Plan.

(a) A person who owns or operates an HMIWI subject to §B of this regulation shall prepare a Waste Management Plan that identifies the feasibility and the approach to solid waste segregation or material substitution to reduce the amount of toxics emissions.

(b) The Waste Management Plan shall meet the requirements of 40 CFR §60.55c.

(c) A revised Waste Management Plan shall be submitted to the Department within 60 days of completion of the required initial compliance tests under this regulation.

(4) Compliance and Performance Testing.

(a) A person who owns or operates an HMIWI subject to §B of this regulation shall complete the initial and subsequent tests which meet the conditions and requirements using test methods and procedures listed under 40 CFR §§60.56c(b)(1) to (b)(6) and (b)(9) to (b)(14), except for annual fugitive and CO emissions testing requirements, which shall comply with 40 CFR §§60.56c(c)(3) and (4).

(b) In addition to the specified test method, compliance with the emissions limits in §B may be demonstrated by use of CEMS or any approved alternative non-EPA test methods allowed under 40 CFR §60.56c(b).

(5) Monitoring Requirements. A person who owns or operates an HMIWI subject to §B of this regulation shall comply with the monitoring requirements under 40 CFR §60.57c.

(a) Exemptions. A person may elect to use the exemptions listed under 40 CFR §§60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), (g)(6) through (10), and (h) for HMIWI units subject to .08-2B(1).

(b) Alternative Compliance Option. A person may elect to use CO CEMS as specified under 40 CFR §60.56c(c)(4) or bag leak detection systems as specified under 40 CFR §60.57c(h).

(6) Reporting and Record-Keeping Requirements. A person who owns or operates an HMIWI subject to §B of this regulation shall report to the Department and EPA and maintain records in accordance with the requirements listed in 40 CFR Part 60.58c(b) through (g), excluding 40 CFR §§60.58c(b)(2)(viii) and (b)(2)(xvii), (b)(2)(xviii) and (b)(2)(xix).

PROPOSED ACTION ON REGULATIONS

1656

C. Emission Limits and Requirements for Small Rural Area HMIWIs.

(1) A person who owns or operates a small rural area HMIWI for which construction was commenced on or before June 20, 1996, or for which modification commenced on or before March 16, 1998, shall comply with the following emission limits.

<i>Pollutant</i>	<i>Units (7 percent oxygen, dry basis)</i>	<i>HMIWI Emission limits</i>	<i>Test Method</i>	<i>Averaging Time¹</i>
<i>Particulate matter</i>	<i>Milligrams per dry standard cubic meter (grains per dry standard cubic foot)</i>	<i>197 (0.086)</i>	<i>EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA reference Method 26A or 29 of Appendix A-3 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Opacity</i>	<i>6 minute block average percent</i>	<i>10</i>	<i>EPA Method 9 and PM CEMS. Alternative use of PM CEMS as stipulated under 40 CFR §60.56c(b)(9) in lieu of EPA Method 9, Appendix A-4 or Bag leak detection system</i>	<i>6 minute block average</i>
<i>Carbon monoxide</i>	<i>Parts per million by volume</i>	<i>40</i>	<i>EPA Reference Method 10 of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Dioxins/furans</i>	<i>Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or Nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)</i>	<i>800 (350) or 15 (6.6)</i>	<i>EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60</i>	<i>3 run average (4 hr minimum sample time per run)</i>
<i>Hydrogen chloride</i>	<i>Parts per million by volume</i>	<i>3,100</i>	<i>EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Sulfur dioxide</i>	<i>Parts per million by volume</i>	<i>55</i>	<i>EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Nitrogen oxides</i>	<i>Parts per million by volume</i>	<i>250</i>	<i>EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Lead</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>10 (4.4)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Cadmium</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>4 (1.7)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>
<i>Mercury</i>	<i>Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)</i>	<i>7.5 (3.3)</i>	<i>EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60</i>	<i>3 run average (1 hr minimum sample time per run)</i>

¹Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

PROPOSED ACTION ON REGULATIONS

1657

(2) A person who owns or operates a small rural area HMIWI for which construction commenced after June 20, 1996 but no later than December 1, 2008, or for which modification was commenced after March 16, 1998 but no later than April 6, 2010, shall comply with the following emission limits.

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emission limits	Test Method	Averaging Time ¹
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	87 (0.038)	EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA reference Method 26A or 29 of Appenixa-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Opacity	6 minute block average percent	6	EPA Method 9 and PM CEMS. Alternative, use of PM CEMS as stipulated under 40 CFR §60.56c(b)(9) in lieu of EPA Method 9, Appendix A-4 or Bag leak detection system	6 minute block average
Carbon monoxide	Parts per million by volume	20	EPA Reference Method 10 of Appendix A -4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet) or Nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	240 (100) or 5.1 (2.2)	EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60	3 run average (4 hr minimum sample time per run)
Hydrogen chloride	Parts per million by volume	810	EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Sulfur dioxide	Parts per million by volume	55	EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Nitrogen oxides	Parts per million by volume	130	EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	0.5 (0.22)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	0.11 (0.048)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	0.0051 (0.0022)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60	3 run average (1 hr minimum sample time per run)

¹Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

(3) Waste Management Plan.

(a) A person who owns or operates a small rural area HMIWI subject to §C of this regulation shall prepare a Waste Management Plan that identifies the feasibility and the approach to solid waste segregation or material substitution to reduce the amount of toxics emissions.

(b) The Waste Management Plan shall meet the requirements of 40 CFR Part 60.55c.

(c) A revised Waste Management Plan shall be submitted to the Department within 60 days of completion of the required initial compliance tests under this regulation.

(4) Compliance and Performance Testing.

(a) A person who owns or operates a small rural area HMIWI shall conduct the performance test in accordance with 40 CFR Part 60.56c, with the following requirement and exemptions:

(i) The compliance test load and frequency shall be conducive to meeting the 2000 lbs/week limitation.

(ii) For an HMIWI subject to §C(1) of this regulation, the test methods listed in 40 CFR §§60.56c(b)(7),(8),(12),(13)(Pb and Cd), and (14) and the annual PM, CO, and HCl emissions testing requirements under 40 CFR §60.56c(c)(2) and the fugitive emissions testing requirements under 40 CFR §60.56c(c)(3) do not apply.

PROPOSED ACTION ON REGULATIONS

1658

(iii) For an HMIWI subject to §C(2) of this regulation the annual fugitive emissions testing requirements under 40 CFR §60.56c(c)(3) do not apply.

(b) A person who owns or operates a small rural area HMIWI not equipped with an air pollution control device shall:

(i) Establish the maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits as required in 40 CFR §60.37e(b)(2).

(ii) Following the date on which the initial performance test is completed, an owner operator may not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at any time, except during performance tests.

(iii) Except as provided in §C(5)(b)(iii) of this regulation, operation of a small rural area HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits.

(iv) Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameters.

(v) The owner or operator may conduct a repeat performance test within 30 days of violation of any applicable operating parameter to demonstrate that the HMIWI is not in violation of the applicable emission limit.

(vi) Repeat performance tests conducted pursuant to §C(4)(b)(v) of this regulation shall be conducted after notification to the Department.

(c) In addition to the specified test method, compliance with the emissions limits in §C may be demonstrated by use of CEMS or any approved alternative non-EPA test methods allowed under 40 CFR §60.56c(b).

(5) Monitoring Requirements.

(a) A person who owns or operates a small rural area HMIWI shall comply with 40 CFR Part 60.57c.

(b) A person who owns or operates a small rural area HMIWI without an air pollution control device shall comply with the following requirements:

(i) Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation;

(ii) Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI; and

(iii) At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and 90 percent of the operating hours per calendar quarter that the HMIWI is combusting hospital waste or medical/infectious waste, or both.

(c) Exemptions.

(i) For an HMIWI subject to the requirements of §C(1) of this regulation, the CO CEMS requirements under 40 CFR §60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR §§60.56c(c)(5) through (7) and (d) through (k) do not apply.

(ii) For an HMIWI subject to the requirements of §C(2) of this regulation, CO CEMS requirements under 40 CFR §60.56c(c)(4), and the compliance requirements for monitoring listed

in 40 CFR §§60.56c(c)(5)(ii) through (v), (c)(6) through (10), (e)(6) through (10), (f)(7) through (10), and g(6) through (10) do not apply.

(6) Reporting and Record-Keeping. A person who owns or operates a small rural area HMIWI shall:

(a) Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection or the time frame established by the Department; and

(b) Submit a report signed by the facility manager containing the information recorded under §B(6)(a) of this regulation in accordance with the following schedule:

(i) For a source subject to the permitting requirements under Title V of the federal Clean Air Act, the report shall be submitted semiannually.

(ii) For a source other than one subject to Title V of the federal Clean Air Act, the report shall be submitted annually, and not later than 60 days following the year in which the data was collected.

(c) Those records required by 40 CFR §§60.58c(b)(2)(viii) and (b)(2)(xvii), (b)(2)(xviii), and (b)(2)(xix), and (b)(7) are not required under §C(6) of this regulation.

D. Equipment Inspection Requirements.

(1) Each HMIWI shall undergo by June 15, 2012 an initial equipment inspection and subsequent annual inspections that at a minimum include the following:

(a) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation and clean pilot flame sensor, as necessary;

(b) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;

(c) Inspect hinges and door latches, and lubricate as necessary;

(d) Inspect dampers, fans, and blowers for proper operation;

(e) Inspect HMIWI door and door gaskets for proper sealing;

(f) Inspect motors for proper operation;

(g) Inspect primary chamber refractory lining; clean and repair or replace lining as necessary;

(h) Inspect incinerator shell for corrosion or hot spots, or both;

(i) Inspect secondary/tertiary chamber and stack and clean as necessary;

(j) Inspect mechanical loader, including limit switches, for proper operation, if applicable;

(k) Visually inspect waste bed (grates), and repair or seal, as appropriate;

(l) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments;

(m) Inspect air pollution control device or devices for proper operation, if applicable;

(n) Inspect waste heat boiler systems to ensure proper operation, if applicable;

(o) Inspect bypass stack components;

(p) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

(q) Generally observe that the equipment is maintained in good operating condition.

(2) Within 10 operating days following an equipment inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department for a different date to complete all necessary repairs.

(3) Each HMIWI shall undergo an equipment inspection annually (within 12 months following the previous annual equipment

inspection), in accordance with the requirements of §D(1) of this regulation.

(4) The control device of an HMIWI shall undergo by June 15, 2012, an initial inspection that at a minimum includes the following:

(a) Inspect air pollution control device(s) for proper operation, if applicable;

(b) Ensure proper calibration of thermocouples, sorbent feed systems, and any other monitoring equipment;

(c) Generally observe that the equipment is maintained in good operating condition; and

(d) Within 10 operating days following an air pollution control device inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department establishing a date whereby all necessary repairs of the designated facility shall be completed.

(5) The control device of HMIWI shall undergo an inspection annually (within 12 months following the previous annual inspection), in accordance with the requirements of §D(4) of this regulation.

E. Compliance Schedules. A person who owns or operates a HMIWI subject to this regulation shall:

(1) Comply with all the requirements of §E of this regulation and related 40 CFR Part 62, Subpart V revision requirements by June 15, 2012 or as expeditiously as practicable; or

(2) Submit to the Department and the EPA for approval, a compliance plan by December 15, 2011 that includes the following increments of progress:

(a) Award contracts for control systems or process modifications or orders for purchase of components no later than June 15, 2012;

(b) Initiate on-site construction or installation of the air pollution control device(s) or process changes no later than December 15, 2012;

(c) Complete on-site construction or installation of control equipment or process changes by no later than December 15, 2013;

(d) Comply with the requirements of this regulation and related 40 CFR Part 62, Subpart V revision as expeditiously as practicable, but no later than October 6, 2014; and

(e) Complete the compliance testing within 180 days after the final compliance date.

F. Compliance Based on Previous Test Results.

A person who owns or operates an HMIWI or a small rural area HMIWI subject to this regulation may use previous emissions tests to demonstrate compliance with the requirements of this regulation provided:

(1) The test was conducted using the applicable procedures and test methods listed in 40 CFR §60.56c(b) or EPA-accepted voluntary consensus standards;

(2) The HMIWI is to be operated in a manner (e.g., with charge rate, secondary chamber temperature, etc.) that would be expected to result in the same or lower emissions than observed during the previous emissions test(s);

(3) The HMIWI has not been modified such that emissions would be expected to exceed (notwithstanding normal test-to-test variability) the results from previous emissions test(s); and

(4) The previous emissions test(s) were conducted in 1996 or later.

G. HMIWI Shutdown.

(1) A person who owns or operates a HMIWI and plans to shutdown rather than comply with the requirements of this regulation and amended 40 CFR Part 60 Subpart Ce shall cease operations by June 15, 2012, but not later than October 6, 2014, as provided in §§G(2) and (3) of this regulation.

(2) A request for an extension of the June 15, 2012 cease operation deadline shall be submitted to the Department by December 15, 2011 and contain the following information:

(a) Documentation of the analysis undertaken to support the need for an extension, including a justification for the length of the period of the extension;

(b) An evaluation of the option to transport the waste off site to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

(c) A plan that documents measurable and enforceable incremental steps of progress to be taken towards permanent facility closure no later than October 6, 2014.

H. Shut-Down Extension Requests for the Installation of Alternative Treatment Technologies. A person who owns or operates an HMIWI and requests an extension to install alternative treatment technologies shall:

(1) Submit by December 15, 2011 a request to the Department to install alternative treatment technology;

(2) Initiate onsite construction or installation of alternative technology by December 15, 2012;

(3) Complete onsite construction or installation by December 15, 2013;

(4) Shut down the existing HMIWI as expeditiously as practicable but no later than October 6, 2014; and

(5) Render the existing HMIWI inoperative as expeditiously as practicable.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 11 AIR QUALITY

26.11.19 Volatile Organic Compounds from Specific Processes

Authority: Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 10-102, and 10-103, Annotated Code of Maryland

Notice of Proposed Action

[11-345-P]

The Secretary of the Environment proposes to repeal existing Regulation .23 and adopt new Regulation .23 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

Statement of Purpose

The purpose of this action is to establish operating standards for vehicle refinishing facilities in Maryland. The regulation establishes VOC content limits for coatings and solvents used during the preparation, application, and drying phases of vehicle refinishing, coating application standards, work practices standards, and monitoring and record-keeping standards.

This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan.

Background:

Since the late 1980s, the U.S. EPA has issued guidelines and several states have promulgated regulations that have set emissions standards for vehicle refinishing facilities by limiting the VOC content of coatings and solvents manufactured and sold for the purpose of vehicle refinishing and placing standards on the application and storage of coatings and solvents used. In 1995, Maryland adopted rules (COMAR 26.11.19.23 — Control of VOC Emissions from Vehicle Refinishing) for limiting emissions from automobile refinishing industries that includes coating standards and coating application equipment, cleanup and surface preparation, and

MARYLAND

Submittal # 12 – 11

PART 1

Adoption of the Requirements of the EPA's Emission Guidelines for Hospital, Medical, Infectious and Medical Waste Incinerators (HMIWIs)

Prepared by:



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101 • www.mde.state.md.us



TECHNICAL SUPPORT DOCUMENT

Amendments to COMAR 26.11.08 Control of Incinerators

Purpose of New Regulation and Amendments

These amendments and new regulation adopt the requirements of the EPA's Emission Guidelines (EG) for hospital, medical, infectious and medical waste incinerators (HMIWI). EPA develops EGs as guidance on control requirements for incinerators. States can follow the EGs or adopt more restrictive standards. MDE proposes to adopt standards for HMIWI consistent with the EGs. The standards reduce emissions from the combustion of hospital, medical, infectious and medical waste. These amendments affect hospital, medical, infectious and medical waste incinerators after October 6, 2014.

Background

EPA is required to develop and adopt new source performance standards (NSPS) and EG for solid waste incineration units pursuant to CAA Sections 111 and 129. New sources (NSPS program) are regulated under Sections 111(b) and 129(a) of the CAA. Existing sources are regulated under Sections 111(d) and 129(b) of the CAA. The NSPS are directly enforceable Federal regulations, and under CAA Section 129(f)(1) become effective 6 months after promulgation. Under CAA Section 129(f)(2), the EG become effective and enforceable as expeditiously as practicable after EPA approves a State plan implementing the EG but no later than 3 years after such approval or 5 years after the date the EG are promulgated, whichever is earlier.

Hospital waste consists of discards generated at a hospital, and medical/infectious waste is generated in the diagnosis, treatment, or immunization of human beings or animals, in research, or in the production or testing of biologicals. Household or hazardous waste, or human and animal remains not generated as medical waste are not included.

Maximum achievable control technology standards for existing HMIWI are set in EG for particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/ dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NOX); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO₂).

Affected Sources and Location

The proposed amendments affect HMIWIs in Maryland.

Requirements

The standards are applicable to HMIWIs after October 6, 2014 in the following categories:

1. Emission standards for small, medium, and large HMIWIs for which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification commenced after March 16, 1998 but no later than April 6, 2010.
2. For small, medium, and large HMIWIs for which construction was commenced on or before June 20, 1996 or for which modification commenced on or before March 16, 1998.
3. For a small rural area HMIWI for which construction commenced on or before June 20, 1996 or for which modification was commenced on or before March 16, 1998.
4. For a small rural area HMIWI for which construction commenced after June 20, 1996 but no later than December 1, 2008 or for which modification was commenced after March 16, 1998 but no later than April 6, 2010.

Expected Emissions Reductions

Minimal emissions reductions in Maryland are expected as a result of adopting the proposed standards. Maryland sources have already applied control technologies to the incineration process and to post incineration emissions. Integration and optimization of the performance of these technologies has also taken place. Controls such as tertiary combustion chamber, dry injection acid gas scrubber, powder activated carbon system, and fabric filter with passive dioxins/furans control are utilized. Maryland sources have already been controlled under COMAR 26.11.08.08-1 in conformance with the initial 1997 MACT standards.

In the MACT review process for the 2009 standards, performance and test results of all sources nationwide were taken into account. Since Maryland sources have already added control technologies, they perform well on a national level and stack test results show that their performance is currently very close to the 2009 MACT standards. Based on the emission levels during stack tests, Maryland HMIWIs would be able to meet most of the standards with the current technologies. For NO_x and HCL further improvements and enhancements would have to be investigated and tested. Emission reductions are expected as a result of adopting these two standards in particular. Emissions are expected to be minimally reduced for the remaining pollutants as a result of implementing the proposed standards. The benefit will be provided throughout the year by reducing criteria pollutants and toxic emissions.

Comparison to Federal Standards

This action is not more restrictive or stringent than the corresponding federal standards.

Economic Impact on Affected Sources

The economic impact of these amendments has been estimated by EPA on a national level. Cost impact on sources that are owned by hospitals is expected to range between 0.1 to 0.9 percent of sales (an average cost for incinerator would be approximately \$250,000 — \$280,000 per year in the first three years). Commercial incinerators have cost impacts that are no more than 2 percent of sales. The economic impact on the Department is going to be minimal in modifying the

standards and ensuring compliance. There will be minimal to no impact on other state agencies and local jurisdictions as some permitting work may be necessary.

Economic Impact on Small Businesses

The Department is unaware of any small business in Maryland that is affected by these amendments.

Submission to EPA as Revision to Maryland's SIP (or 111(d) Plan, or Title V Program)

This action will be submitted to EPA as a revision to the 111(d)/129 Plan.

Reference 40 CFR Part 60 Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/ Medical/Infectious Waste Incinerators; Final Rule



Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

December 9, 2011

CERTIFICATE OF PUBLICATION

This is to certify that the "Maryland Department of the Environment (MDE) Notice of Public Hearings Concerning Proposed Amendments to Air Quality Regulations" was published on MDE's web site on December 8, 2011. It will remain posted on the site until at least January 12, 2012. The notice in full with links to supporting documents may be found in the following web address:

<http://www.mde.state.md.us/AboutMDE/pages/reqcomments.aspx>

Web publication of the notice was at the request of Deborah Rabin, Regulations Coordinator of the Air and Radiation Management Administration of MDE.

By:

DIANA ALEGRE
MDE Webmaster

Attachments:

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MDE Public Meetings, Hearings and Request for Comments

► MDE Calendar

The complete listing of MDE public meetings and hearings is posted in the [MDE Calendar](#). Please call or email contact person cited in the meeting details for any questions or to send a comment.

► Public Hearings Concerning Proposed Amendments To Air Quality Regulations

The Maryland Department of the Environment gives notice of public hearings concerning proposed amendments to air quality regulations. The proposed actions are briefly described below:

1. Proposal to amend Regulation **.04** under **COMAR 26.11.01 General Administrative Provisions**, and Regulation **.02** under **COMAR 26.11.19 Volatile Organic Compounds from Specific Processes**.

The purpose of this action is to adopt the requirements of the Environmental Protection Agency's (EPA's) Control Techniques Guidelines (CTG) standards regarding work practice standards and apply them to a variety of CTG regulations under COMAR 26.11.19. This action will be submitted to the EPA for approval as part of Maryland's State Implementation Plan (SIP). ([Technical Support Document](#))

2. Proposal to amend Regulation **.01** under **COMAR 26.11.01 General Administrative Provisions**, Regulation **.01** under **COMAR 26.11.02 Permits, Approvals, and Registration**, and Regulation **.14** under **COMAR 26.11.06 General Emissions Standards, Prohibitions, and Restrictions**.

The purpose of this action is to implement EPA's action to defer, for a period of three years, the Prevention of Significant Deterioration (PSD) and Title V permitting requirements related to carbon dioxide (CO₂) emissions from bioenergy and other biogenic stationary sources (biogenic CO₂). This will allow EPA to resolve technical issues so that biogenic CO₂ can be accounted for properly. The appropriate parts of this action will be submitted to EPA for approval as part of Maryland's State Implementation Plan and Title V Program. The Department will request approval of the regulations in their entirety. ([Technical Support Document](#))

3. Proposal to repeal existing Regulation **.23** and adopt new Regulation **.23** under **COMAR 26.11.19 Volatile Organic Compounds from Specific Processes**. ([Technical Support Document](#))

The purpose of this action is to establish operating standards for vehicle refinishing facilities in Maryland. The regulation establishes VOC content limits for coatings and solvents used during the preparation, application, and drying phases of vehicle refinishing, coating application standards, work practices standards, and monitoring and recordkeeping standards. This action will be submitted to the EPA for approval as part of Maryland's SIP.

4. Proposal to amend Regulation **.01** under **COMAR 26.11.01 General Administrative Provisions**, and Regulation **.12** under **COMAR 26.11.06 General Emission Standards, Prohibitions, and Restrictions**.

The purpose of this action is to (1) update the definition of National Emission Standards for Hazardous Air Pollutants source (NESHAP source) under COMAR 26.11.01B(21)(b), (2) update the definition of New Source Performance Standard source (NSPS source) under COMAR 26.11.01B(23), and (3) update a cross reference to the NSPS definition in COMAR 26.11.06.12. Maryland will be requesting delegation to implement and enforce the NESHAP and NSPS requirements specified in this action. ([Technical Support Document](#))

5. Proposal to amend Regulations **.01**, **.02**, **.08-1**, and adopt new Regulation **.08-2** under **COMAR 26.11.08 Control of Incinerators**. The purpose of this action is to adopt the requirements of the EPA's Emission Guidelines (EG) for hospital, medical, infectious and medical waste incinerators (HMIWI). This action will be submitted to the EPA for approval as a revision to Maryland's 111(d) Plan. ([Technical Support Document](#))

The full text of these proposed actions appeared in the Maryland Register on December 2, 2011.

The technical support documents (TSDs) are available for public review on the Maryland Department of the Environment's website at the following address: <http://www.mde.state.md.us/aboutmde/pages/reqcomments.aspx>

The proposed action and supporting documents are also available for review at the following locations: the Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

A public hearing on the proposed actions will be held on January 11, 2012 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720.

Interested persons are invited to attend and express their views. Comments may be mailed to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us, or faxed to (410) 537-4223. Comments must be received not later than **January 11, 2012**, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Anyone needing special accommodations at a public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

► Maryland Department of the Environment Proposed Calendar Year 2012 Standard Permit Application Turnaround Times.

Please [click here](#) for more information.





Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Acting Secretary

Anthony G. Brown
Lieutenant Governor

July 26, 2012

CERTIFICATE OF PUBLICATION

This is to certify that the "Maryland Department of the Environment (MDE) Notice of Public Hearing concerning the following proposed actions: Amend COMAR 26.11.02.09; Amend COMAR 26.11.09.08; amend COMAR 26.11.14.06 - .07, adopt new 26.11.14.08; Repeal existing COMAR 26.11.29 and adopt new COMAR 29.11.29; Amend COMAR 26.11.09.08; adopt new COMAR 26.11.30; COMAR 26.11.08.08-2 amendment and 111(d) Plan was published on MDE's web site on July 25, 2012. It will remain posted on the site until September 12, 2012. The notice in full with links to supporting documents may be found in the following web address:

<http://www.mde.state.md.us/AboutMDE/pages/reqcomments.aspx>

Web publication of the notice was at the request of Deborah Rabin, Regulations Coordinator of the Air and Radiation Management Administration of MDE.

By:



JOSEPH E. HERB, JR.
MDE Webmaster

Attachments:

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MDE Public Meetings, Hearings and Request for Comments

MDE Calendar

The complete listing of MDE public meetings and hearings is posted in the [MDE Calendar](#). Please call or email contact person cited in the meeting details for any questions or to send a comment.

Notice of Public Hearings Concerning Proposed Amendments to Air Quality Regulations and New Regulations

The Maryland Department of the Environment gives notice of public hearings concerning the following proposed actions:

1. **Amend COMAR 26.11.02.09** (sources subject to permits to construct and approvals) to correct an unintended consequence of a recent amendment to COMAR 26.11.01.01. The amendment to the definition of a NESHAP source that became effective on March 5, 2012 expands the universe of sources required to obtain a permit to construct under COMAR 26.11.02.09;
[\(Technical Support Document\)](#)
2. **Amend COMAR 26.11.09.08; amend COMAR 26.11.14.06 - .07, adopt new 26.11.14.08** (Kraft Pulp Mill requirements) to accurately describe the VOC control system and requirements, to incorporate existing NOx RACT requirements into this Chapter, to clarify Monitoring and Reporting Requirements, and to include emission limits for sulfur dioxide that were part of a consent order with the Department and New Page;
[\(Technical Support Document\)](#)
3. **Repeal existing COMAR 26.11.29 and adopt new COMAR 29.11.29** to maintain and consolidate NOx emission requirements for internal combustion engines used to compress natural gas located at natural gas pipeline compression stations. These NOx emission requirements were approved as RACT by the U.S. EPA under the NOx SIP Call for affected nontrading sources;
[\(Technical Support Document\)](#)
4. **Amend COMAR 26.11.09.08; adopt new COMAR 26.11.30** to:
(a) combine all of the existing requirements in COMAR 26.11.01, .06, and .29 regarding NOx, SOx and particulate matter that apply to Portland cement manufacturing plants into one chapter;
(b) repeal old NOx RACT requirements in COMAR 26.11.09.08 which apply to Portland cement manufacturing plants; and
(c) establish procedures for Portland cement manufacturing plants to demonstrate compliance with visible emissions requirements using COM data and compliance with NOx emission requirements using CEM data
[\(Technical Support Document\)](#)
5. **COMAR 26.11.08.08-2 amendment and 111(d) Plan** pertaining to the compliance schedule for hospital, medical, infectious and medical waste (HMIWI) incinerators and the HMIWI requirement 111(d) Plan. Based on testing and analysis conducted by affected sources, flexibility in meeting the interim compliance dates is needed to better accomplish and optimize the required level of control and achieve compliance by October 6, 2014. The proposed amendment allows a source to propose and follow an alternate plan and schedule for meeting the October 6, 2014 compliance date.
[\(Technical Support Document\)](#)

Actions #1 - #4 will be submitted to the U.S. EPA for approval as revisions to Maryland's State Implementation Plan. Action #5 will be submitted to the U.S. EPA for approval under Sections 111(d)/129 of the Clean Air Act.

The full text of the proposed amendments and new regulations will appear in the Maryland Register at <http://www.dsd.state.md.us/mdregister/> on **August 10, 2012**.

Public hearings on the 5 actions will be held on **September 12, 2012** at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720.

Comments must be received not later than **September 12, 2012**, or be submitted at the hearing. For more information or to submit comments, call/e-mail/ fax:
Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration
Department of the Environment
1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720
Telephone: (410) 537-3240
Email: drabin@mde.state.md.us
Fax: (410) 537-4223

Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Antietam Creek watershed, Washington County, Maryland

A 30-day public comment period for the draft document will take place from July 16, 2012 to August 15, 2012. Copies of the draft documents have been placed in the Washington County Free Library- Keedysville Branch (22 Taylor Dr., Keedysville, MD 21756) and the Washington County Free Library- Boonsboro Branch (19 N Main St., Boonsboro, MD 21713). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/SSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 15, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

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Case 1:19-cv-01264 Document 1-4 Filed 04/30/19 Page 37 of 86
Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Catoctin Creek watershed, Frederick County, Maryland

A 30-day public comment period for the draft document will take place from July 16, 2012 to August 15, 2012. Copies of the draft documents have been placed in the Frederick County Public Library- C. Burr Artz Public Library (110 E Patrick St., Frederick, MD 21701). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/SSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 15, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Rock Creek watershed, Montgomery County, Maryland

A 30-day public comment period for the draft document will take place from July 16, 2012 to August 15, 2012. Copies of the draft documents have been placed in the Montgomery County Public Library- Rockville Branch (99 Maryland Ave., Rockville, MD 20850). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/TARSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 15, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Double Pipe Creek watershed, Carroll and Frederick Counties, Maryland.

A 30-day public comment period for the draft document will take place from July 23, 2012 to August 22, 2012. Copies of the draft documents have been placed in the Frederick County Public Library- C. Burr Artz Public Library (110 E Patrick St., Frederick, MD 21701) and Carroll County Public Library- Westminster Branch (50 E. Main St., Westminster, MD 21157). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/SSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 22, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Upper Monocacy River watershed, Frederick and Carroll Counties, Maryland.

A 30-day public comment period for the draft document will take place from July 26, 2012 to August 24, 2012. Copies of the draft documents have been placed in the Frederick County Public Library- C. Burr Artz Public Library (110 E Patrick St., Frederick, MD 21701) and Carroll County Public Library- Westminster Branch (50 E. Main St., Westminster, MD 21157). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/SSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 24, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

Notice of Public Hearings Concerning Proposed Amendments to Air Quality Regulations and Revisions to Maryland's State Implementation Plan

The Maryland Department of the Environment gives notice of public hearings concerning the following actions:

1. Proposal to amend Regulation .03 and repeal Regulations .04 - .09 under COMAR 26.11.04 Ambient Air Quality Standards. The purpose of this action is to adopt the following revised National Ambient Air Quality Standards (NAAQS) as required by Section 2-302 (c) of the Environment Article of the Annotated Code of Maryland:

- the 2006 revised NAAQS for particulate matter (PM) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50, 53, and 58.
- the 2010 revised NAAQS for sulfur dioxide (SO₂) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50, 53 and 58.
- the 2008 NAAQS for ground-level ozone (O₃) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50 and 58.
- the 2010 revised NAAQS for nitrogen dioxide (NO₂) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50 and 58.
- the 2008 NAAQS for lead (Pb) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50, 51, 53 and 58.

In this regulatory action the NAAQS are being incorporated by reference prospectively in order for Maryland's ambient air quality standards to be identical to the federal standards at all times.

[\(Technical Support Document\)](#)

This action will be submitted to the U.S. Environmental Protection Agency for approval as part of Maryland's State Implementation Plan.

2. Proposal to adopt new Regulation .27-1 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes. The purpose of this action is to adopt the requirements of the EPA's Control Techniques Guidelines (CTG) for miscellaneous metal and plastic parts which include controls for pleasure craft coating operations. EPA develops CTGs as guidance on control requirements for source categories. States can follow the CTGs or adopt more restrictive standards. MDE proposes to adopt new standards and requirements that have been developed in coordination with EPA and trade associations representing the pleasure craft industry.

[\(Technical Support Document\)](#)

This action will be submitted to the U.S. Environmental Protection Agency for approval as part of Maryland's State Implementation

3. Proposal to remove the Board of Education of Allegheny County's 1979 Consent Order from the State Implementation Plan. The coal-fired boiler located at Beall High School has been demolished along with the entire school. The Department issued a construction permit for a 15.5 million BTU per hour coal fired boiler on February 6, 1979.

([Fact Sheet](#)) ([Consent Order](#))

This action will be submitted to the U.S. Environmental Protection Agency for approval as a revision to Maryland's State Implementation Plan.

4. Proposal to remove the Saint Mary's College 1979 Consent Order from the State Implementation Plan. The coal-fired F. Keeler Company Boiler has been modified by removing the coal firing capability and converting the boiler to mainly fire natural gas with No. 2 fuel oil backup. The Department issued a construction permit for this modification on July 18, 2000.

([Fact Sheet](#)) ([Permit Application](#)) ([Permit Modification](#)) ([Consent Order](#))

This action will be submitted to the U.S. Environmental Protection Agency for approval as a revision to Maryland's State Implementation Plan.

The full text of the proposed amendments and new regulation listed under **#1** and **#2** will appear in the Maryland Register at <http://www.dsd.state.md.us/mdregister> on June 15, 2012.

Public hearings on the four (4) proposed actions listed above will be held on **July 18, 2012** at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720.

The proposed actions and supporting documents are also available for review at the following locations: the Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Interested persons are invited to attend and express their views. Comments may be mailed to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us, or faxed to (410) 537-4223. Comments must be received not later than **July 18, 2012**, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Anyone needing special accommodations at a public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

Response to Comments for Selected Public Hearings

- [Response to comments for the public hearing held on July 11, 2011 for COMAR 26.11.19.11- Related to Volatile Organic Compounds from Specific Processes- Lithographic and Letterpress Printing](#)
- [Response to comments for the public hearing held on July 11, 2011 for COMAR 26.11.19.23- Related to Control of VOC Emissions from Vehicle Refinishing](#)

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1800 Washington Boulevard, Baltimore, MD 21230 | (410) 537-3000

Debbie Rabin - Notice of Public Hearings - Please confirm receipt

From: Debbie Rabin
To: All County Environmental Health Directors; All County Health Officers; ...
Date: 8/8/2012 12:09 PM
Subject: Notice of Public Hearings - Please confirm receipt
CC: Angelo Bianca; Tad Aburn

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
AIR & RADIATION MANAGEMENT ADMINISTRATION
NOTICE OF PUBLIC HEARINGS**

The Maryland Department of the Environment gives notice of public hearings concerning the following proposed actions:

1. **Amend COMAR 26.11.02.09** (sources subject to permits to construct and approvals) to correct an unintended consequence of a recent amendment to COMAR 26.11.01.01. The amendment to the definition of a NESHAP source that became effective on March 5, 2012 expands the universe of sources required to obtain a permit to construct under COMAR 26.11.02.09;
2. **Amend COMAR 26.11.09.08; amend COMAR 26.11.14.06 - .07, adopt new 26.11.14.08** (Kraft Pulp Mill requirements) to accurately describe the VOC control system and requirements, to incorporate existing NOx RACT requirements into this Chapter, to clarify monitoring and reporting requirements, and to include emission limits for sulfur dioxide that were part of a consent order with the Department and New Page;
3. **Repeal existing COMAR 26.11.29 and adopt new COMAR 29.11.29** to maintain and consolidate NOx emission requirements for internal combustion engines used to compress natural gas located at natural gas pipeline compression stations. These NOx emission requirements were approved as RACT by the U.S. EPA under the NOx SIP Call for affected nontrading sources;
4. **Amend COMAR 26.11.09.08; adopt new COMAR 26.11.30** to:
 - (a) combine all of the existing requirements that apply to Portland cement manufacturing plants into one chapter;
 - (b) repeal old NOx RACT requirements; and
 - (c) establish procedures to demonstrate compliance with visible emissions requirements using COM data and compliance with NOx emission requirements using CEM data.
5. **COMAR 26.11.08.08-2 amendment and 111(d) Plan** pertaining to the compliance schedule for hospital, medical, infectious and medical waste (HMIWI) incinerators and the HMIWI requirement 111(d) Plan. Based on testing and analysis conducted by affected sources, flexibility in meeting the interim compliance dates is needed to better accomplish and optimize the required level of control and achieve compliance by October 6, 2014. The proposed amendment allows a source to propose and follow an alternate plan and schedule for meeting the October 6, 2014 compliance date.

Actions #1 - #4 will be submitted to the U.S. EPA for approval as revisions to Maryland's State Implementation Plan.

Action #5 will be submitted to the U.S. EPA for approval under Sections 111(d)/129 of the Clean Air Act.

The full text of the proposed amendments and new regulations will appear in the Maryland Register at <http://www.dsd.state.md.us/mdregister/> on **August 10, 2012**.

Public hearings on the 5 actions will be held on **September 12, 2012** at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720.

The technical support documents and additional information is available on the Maryland Department of the Environment's website at the following address:

<http://www.mde.state.md.us/aboutmde/pages/regcomments.aspx>

Please make these materials available in your office for public review.

Comments must be received not later than **September 12, 2012**, or be submitted at the hearing. For more information or to submit comments, call/e-mail/ fax:

Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration

Department of the Environment

1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720

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Maryland Dept. of the Environment
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Baltimore, MD 21230

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Subject: Notice of Public Hearings - Please confirm receipt
Created By: drabin@mde.state.md.us
Scheduled Date:
Creation Date: 8/8/2012 12:09 PM
From: Debbie Rabin

Recipient	Action	Date & Time	Comment
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To: Al Hooker (AHooker@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
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To: Allison OHanlon (AOHanlon@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
CC: Angelo Bianca (abianca@mde.state.md.us)	Delivered	8/8/2012 12:09 PM

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To: April Stehr (AStehr@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
To: Audrey Hansen (AHansen@mde.state.md.us)	Replied	8/8/2012 12:09 PM
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To: Bill Murphy (bmurphy@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
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To: Gilbert Lookingland (glookingland@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
To: Glen Savage (gsavage@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
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To: Philip Chaing-Smith (PChiang-Smith@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
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To: Susan Tiffany (STiffany@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
To: Todd Kamens (Tkamens@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
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To: David Bramble (DBramble@mde.state.md.us)	Delivered	8/8/2012 12:09 PM
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To: Evelyn Stavrou (estavrou@mde.state.md.us)	Read	8/8/2012 1:16 PM
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12:09 PM

To: William Fracassi (wfracassi@mde.state.md.us)Read 8/8/2012
1:18 PM

Debbie Rabin - Notice of Public Hearings - Please confirm receipt

From: Debbie Rabin
To: Ali Mirzakhali; Cecily Beall; Diana Esher; John Benedict; Joyce Ep...
Date: 8/8/2012 12:10 PM
Subject: Notice of Public Hearings - Please confirm receipt
CC: Angelo Bianca; Hal Frankford; Kathleen Cox; Marcia Spink; Tad Aburn

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
AIR & RADIATION MANAGEMENT ADMINISTRATION
NOTICE OF PUBLIC HEARINGS**

The Maryland Department of the Environment gives notice of public hearings concerning the following proposed actions:

1. **Amend COMAR 26.11.02.09** (sources subject to permits to construct and approvals) to correct an unintended consequence of a recent amendment to COMAR 26.11.01.01. The amendment to the definition of a NESHAP source that became effective on March 5, 2012 expands the universe of sources required to obtain a permit to construct under COMAR 26.11.02.09;
2. **Amend COMAR 26.11.09.08; amend COMAR 26.11.14.06 - .07, adopt new 26.11.14.08** (Kraft Pulp Mill requirements) to accurately describe the VOC control system and requirements, to incorporate existing NOx RACT requirements into this Chapter, to clarify monitoring and reporting requirements, and to include emission limits for sulfur dioxide that were part of a consent order with the Department and New Page;
3. **Repeal existing COMAR 26.11.29 and adopt new COMAR 29.11.29** to maintain and consolidate NOx emission requirements for internal combustion engines used to compress natural gas located at natural gas pipeline compression stations. These NOx emission requirements were approved as RACT by the U.S. EPA under the NOx SIP Call for affected nontrading sources;
4. **Amend COMAR 26.11.09.08; adopt new COMAR 26.11.30** to:
 - (a) combine all of the existing requirements that apply to Portland cement manufacturing plants into one

chapter;

(b) repeal old NOx RACT requirements; and

(c) establish procedures to demonstrate compliance with visible emissions requirements using COM data and compliance with NOx emission requirements using CEM data.

5. **COMAR 26.11.08.08-2 amendment and 111(d) Plan** pertaining to the compliance schedule for hospital, medical, infectious and medical waste (HMIWI) incinerators and the HMIWI requirement 111(d) Plan. Based on testing and analysis conducted by affected sources, flexibility in meeting the interim compliance dates is needed to better accomplish and optimize the required level of control and achieve compliance by October 6, 2014. The proposed amendment allows a source to propose and follow an alternate plan and schedule for meeting the October 6, 2014 compliance date.

Actions #1 - #4 will be submitted to the U.S. EPA for approval as revisions to Maryland's State Implementation Plan.

Action #5 will be submitted to the U.S. EPA for approval under Sections 111(d)/129 of the Clean Air Act.

The full text of the proposed amendments and new regulations will appear in the Maryland Register at <http://www.dsd.state.md.us/mdregister/> on **August 10, 2012**.

Public hearings on the 5 actions will be held on **September 12, 2012** at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720.

The technical support documents and additional information is available on the Maryland Department of the Environment's website at the following address:

<http://www.mde.state.md.us/aboutmde/pages/regcomments.aspx>

Comments must be received not later than **September 12, 2012**,

or be submitted at the hearing. For more information or to submit comments, call/e-mail/ fax:

Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration
Department of the Environment
1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720
Telephone: (410) 537-3240

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Deborah Rabin, Regulations Coordinator
Air & Radiation Management Administration
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Subject: Notice of Public Hearings - Please confirm receipt
Created By: drabin@mde.state.md.us
Scheduled Date:
Creation Date: 8/8/2012 12:10 PM
From: Debbie Rabin

Recipient	Action	Date & Time	Comment
To: Ali Mirzakhali (Ali.Mirzakhali@state.de.us)	Transferred	8/8/2012 12:10 PM	
CC: Angelo Bianca (abianca@mde.state.md.us)	Read	8/8/2012 12:37 PM	
BC: Brian Hug (bhug@mde.state.md.us)	Deleted	8/8/2012 12:24 PM	
To: Cecily Beall (cecily.beall@dc.gov)	Transferred	8/8/2012 12:10 PM	
BC: Dave Campbell (campbell.dave@epa.gov)	Transferred	8/8/2012 12:11 PM	2.0.0 message relayed
BC: David Arnold (arnold.david@epa.gov)	Transferred	8/8/2012 12:11 PM	2.0.0 message relayed
BC: Debbie Rabin (drabin@mde.state.md.us)	Read	8/8/2012 1:52 PM	
BC: Diana Alegre (dalegre@mde.state.md.us)	Read	8/8/2012 12:12 PM	
To: Diana Esher (esher.diana@epa.gov)	Transferred	8/8/2012 12:11 PM	2.0.0 message relayed
BC: Diane Franks (dfranks@mde.state.md.us)	Delivered	8/8/2012 12:10 PM	
BC: Frank Courtright (fcourtright@mde.state.md.us)	Delivered	8/8/2012 12:10 PM	
CC: Hal Frankford (frankford.harold@epa.gov)	Transferred	8/8/2012 12:11 PM	2.0.0 message relayed
BC: Joe Herb (jherb@mde.state.md.us)	Read	8/8/2012 12:10 PM	
To: John Benedict (John.A.Benedict@wv.gov)	Transferred	8/8/2012 12:10 PM	
To: Joyce Epps (jeepps@state.pa.us)	Transferred	8/8/2012 12:10 PM	
BC: Karen Irons (kiron@mde.state.md.us)	Read	8/8/2012 12:49 PM	
CC: Kathleen Cox (cox.kathleen@epa.gov)	Transferred	8/8/2012 12:11 PM	2.0.0 message relayed
BC: Kathleen Perry (kperry@mde.state.md.us)	Delivered	8/8/2012 12:10 PM	
CC: Marcia Spink (spink.marcia@epa.gov)	Transferred	8/8/2012 12:11 PM	2.0.0 message relayed
To: Michael Dowd (mgdowd@deq.virginia.gov)	Transferred	8/8/2012 12:10 PM	
BC: Ralph Hall (rhall@mde.state.md.us)	Read	8/8/2012 1:04 PM	
BC: Randy Mosier (mosier@mde.state.md.us)	Delivered	8/8/2012 12:10 PM	
CC: Tad Aburn (gaburn@mde.state.md.us)	Deleted	8/8/2012 12:35 PM	

MARYLAND DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION MANAGEMENT ADMINISTRATION

PUBLIC HEARING
CONCERNING PROPOSED AMENDMENTS TO
COMAR 26.11.08.08-2 CONCERNING HMIWI REQUIREMENTS

The hearing in the above matter commenced on
Wednesday, September 12, 2012, at the MDE Headquarters,
Montgomery Park, 1800 Washington Boulevard, Baltimore,
Maryland.

BEFORE: DEBORAH RABIN, Hearing Officer

Reported by: Linda Metcalf

A P P E A R A N C E S

ON BEHALF OF THE MARYLAND DEPARTMENT OF THE ENVIRONMENT:

DEBORAH RABIN

Regulations Coordinator
Regulation Development Division
Air and Radiation Management Administration
Maryland Department of the Environment
1800 Washington Boulevard, Suite 730
Baltimore, Maryland 21230

HUSAIN WAHEED

Senior Regulatory and Compliance Engineer
Regulation Development Division
Air and Radiation Management Administration
Maryland Department of the Environment
1800 Washington Boulevard, Suite 730
Baltimore, Maryland 21230

I N D E X

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<u>Speaker:</u>	<u>Page:</u>
Opening Remarks, Deborah Rabin, MDE	4
Hearing Statement, Husain Waheed, MDE	5

P R O C E E D I N G S

- - - - -

(10:14 a.m.)

MS. RABIN: Good morning. On behalf of the Department of the Environment and the Air and Radiation Management Administration, I would like to welcome you to this public hearing.

My name is Deborah Rabin. I am the Regulations Coordinator for the Air and Radiation Management Administration. I will serve as hearing officer for today's hearing.

This hearing concerns Air Quality Regulations found in the Code of Maryland Regulations, Title 26, Subtitle 11, Air Quality. The Secretary of the Department proposes to amend Regulation .08-2 under COMAR 26.11.08, Control of Incinerators.

The purpose of this hearing is to give you the opportunity to comment on this action.

The Opportunity for Public Comment for this proposed action appeared in the Maryland Register, Volume 39, Issue 16, Pages 1120 on August 10, 2012.

For The Record, Inc.
(301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 Please let the record show that no one has come
2 to attend this public hearing; therefore, the rest of the
3 hearing statements, including mine and Husain Waheed's,
4 are submitted for the record.

6 **Statement of the Air and Radiation**

7 **Management Administration**

8 **Department of the Environment**

9 **for the Public Hearing Relating to Proposed**
10 **Amendment to COMAR 26.11.08 Control of Incinerators**

11 **held on September 12, 2012 Baltimore, MD**

12 My name is Husain Waheed. I am a Senior
13 Regulatory and Compliance Engineer with the Regulation
14 Development Division of the Air and Radiation Management
15 Administration, Department of the Environment.

16 This public hearing is being held pursuant to
17 the requirements of 40 CFR Section 51.102 and Sections 2-
18 301 et. seq. of the Environment Article, Annotated Code
19 of Maryland. It is also being held in conformance with
20 the State Administrative Procedures Act under the State
21 Government Article, beginning at Section 10-101.

 For The Record, Inc.
 (301) 870-8025 - www.ftrinc.net - (800) 921-5555

1 Notice of this hearing appeared in the:
2 Maryland Register on July 25, 2012 through September 12,
3 2012; Baltimore Sun on August 10, 2012; Saint Mary's
4 Enterprise on August 10, 2012; Cumberland Times-News on
5 August 10, 2012; Frederick News-Post on August 10, 2012;
6 Cecil Whig on August 10, 2012; Salisbury Daily Times on
7 August 10, 2012; and the Washington Post on August 9,
8 2012. Copies of these notices were submitted for the
9 record.

10 Copies of the proposed action and supporting
11 documents were submitted for review to the State
12 Clearinghouse and are also submitted at this time into
13 the hearing record. Copies were also made available for
14 public inspection at the Air and Radiation Management
15 Administration offices in Baltimore, Cumberland, and
16 Salisbury, and at all local health departments or local
17 air quality control offices.

18 The purpose of today's hearing is to give the
19 public an opportunity to comment on the proposed
20 amendment to COMAR 26.11.08 Control of Incinerators and
21 111(d)/129 Plan.

1 **Summary**

2 The amendment pertains to the compliance
3 schedule for hospital, medical, infectious and medical
4 waste incinerators (HMIWI) that are required to comply
5 with COMAR 26.11.08.08-2.

6 Based on testing and analysis conducted by
7 affected sources, flexibility in meeting the interim
8 compliance dates is needed to better accomplish and
9 optimize the required level of control and achieve
10 compliance by October 6, 2014. The type of technologies
11 being explored require frequent modifications and
12 adjustments before they can perform at optimal level.
13 While the results show that compliance with the
14 compliance date is feasible, the interim dates may deter
15 the research and development of compliance options. The
16 proposed amendment allows a source to propose and follow
17 an alternate plan and schedule for meeting the October 6,
18 2014 compliance date.

19 The 111(d)/129 Plan is for the adoption of the
20 requirements of the EPA's Emission Guidelines (EG) for
21 HMIWI. EPA is required to develop and adopt new source

performance standards (NSPS) and EG for solid waste incineration units pursuant to CAA Sections 111 and 129. Maximum achievable control technology standards for existing HMIWI are set in EG for particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NOX); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO₂). The standards are applicable based on the year of construction or modification of the incinerator. Affected sources have to comply with the standards by October 6, 2014 at the latest.

Maryland's 111(d)/129 State Implementation Plan (SIP)

This amendment and 111(d)/129 Plan will be submitted to the EPA for approval as part of the 111(d)/129 SIP.

Consideration of Comments

The Department will consider all comments before making a decision to adopt the amendment.

1 MS. RABIN: This will conclude the public
2 hearing regarding proposed amendments to Regulation .08-2
3 under COMAR 26.11.08, Control of Incinerators.

4 Let the record reflect that it is now 10:16,
5 and this hearing is officially concluded.

6 **(Whereupon, the hearing was concluded)**

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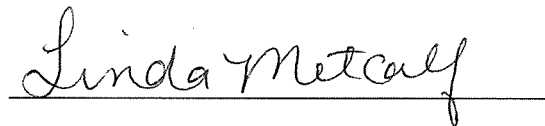
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CERTIFICATE OF COURT REPORTER

I, Linda Metcalf, do hereby certify that the foregoing transcription was reduced to typewriting via audiotapes recorded by me; that I am neither counsel for, nor related to, nor employed by any of the parties to the case in which these proceedings were transcribed; that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

A handwritten signature in cursive script that reads "Linda Metcalf". The signature is written in black ink and is positioned above a solid horizontal line.

LINDA METCALF

Court Reporter

1146

(3) A vendor seeking Department approval of an online student or professional development course shall pay a nonrefundable fixed fee to the Department to cover the cost of a review.

(4) The review shall be conducted by a panel of content experts designated by the Department.

(5) The cost of a review will be a nonrefundable fixed fee of \$1,400 per course.

(6) Upon review and approval by the State Board, the Department may increase the fee per online course review in FY 2016 and any subsequent years by no more than 20 percent per annum. If the Department increases the fee, it shall publish such increase on its website at www.marylandpublicschools.org.

(7) Each Vendor shall submit the nonrefundable fee with each course to be reviewed. The Department's acceptance of the review fee does not guarantee the Department's approval of the online course.

(8) The Department reserves the right to review previously approved courses every 3 years.

E. — J. (text unchanged)

BERNARD J. SADUSKY, Ed.D.
Interim State Superintendent of Schools

Title 13B MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 05 FULLY ONLINE PROGRAMS

13B.05.01 Registration

Authority: Education Article, §§11-105(u), 11-202, 11-202.2, and 24-707,
Annotated Code of Maryland

Notice of Emergency Action [12-228-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to new Regulations .01 — .11 under the new chapter, **COMAR 13B.05.01 Fully Online Programs**, under a new subtitle, **Subtitle 05 Fully Online Programs**.

Emergency status began: July 1, 2012.

Emergency status expires: December 26, 2012.

Editor's Note: The text of this document will not be printed here because it appears as a Notice of Proposed Action on pages 1167 of this issue, referenced as [12-228-P].

DANETTE GERALD HOWARD, Ph.D.
Secretary of Higher Education

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

26.11.08 Control of Incinerators

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 2-406, 10-102, and 10-103, Annotated Code of Maryland

Notice of Emergency Action [12-198-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amendments to Regulation .08-2 under **COMAR 26.11.08 Control of Incinerators**.

Emergency status began: July 4, 2012.

Emergency status expires: November 30, 2012.

Editor's Note: The text of this document will not be printed here because it appeared as a Notice of Proposed Action in 39:16 Md. R. 1119—1120 (August 10, 2012), referenced as [12-198-P].

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

**Statement of the Air and Radiation Management Administration
Department of the Environment
for the Public Hearing Relating to Proposed
Amendment to COMAR 26.11.08 Control of Incinerators
held on September 12, 2012 Baltimore, MD**

My name is Husain Waheed. I am a Senior Regulatory and Compliance Engineer with the Regulation Development Division of the Air and Radiation Management Administration, Department of the Environment.

This public hearing is being held pursuant to the requirements of 40 CFR Section 51.102 and Sections 2-301 et.seq. of the Environment Article, Annotated Code of Maryland. It is also being held in conformance with the State Administrative Procedures Act under the State Government Article, beginning at Section 10-101.

Notice of this hearing appeared in the:

MDE's Website from July 25, 2012 through September 12, 2012
Maryland Register on August 10, 2012;
Baltimore Sun on August 10, 2012;
Saint Mary's Enterprise on August 10, 2012;
Cumberland Times-News on August 10, 2012;
Frederick News-Post on August 10, 2012;
Cecil Whig on August 10, 2012;
Salisbury Daily Times on August 10, 2012; and the
Washington Post on August 9, 2012.

Copies of these notices were submitted for the record.

Copies of the proposed action and supporting documents were submitted for review to the State Clearinghouse and are also submitted at this time into the hearing record. Copies were also made available for public inspection at the Air and Radiation Management Administration offices in Baltimore, Cumberland, and Salisbury, and at all local health departments or local air quality control offices.

The purpose of today's hearing is to give the public an opportunity to comment on the proposed amendment to COMAR 26.11.08 Control of Incinerators and 111(d)/129 Plan.

Summary

The amendment pertains to the compliance schedule for hospital, medical, infectious and medical waste incinerators (HMIWI) that are required to comply with COMAR 26.11.08.08-2.

Based on testing and analysis conducted by affected sources, flexibility in meeting the interim compliance dates is needed to better accomplish and optimize the required level of control and achieve compliance by October 6, 2014. The type of technologies being explored require

frequent modifications and adjustments before they can perform at optimal level. While the results show that compliance with the compliance date is feasible, the interim dates may deter the research and development of compliance options. The proposed amendment allows a source to propose and follow an alternate plan and schedule for meeting the October 6, 2014 compliance date.

The 111(d)/129 Plan is for the adoption of the requirements of the EPA's Emission Guidelines (EG) for HMIWI. EPA is required to develop and adopt new source performance standards (NSPS) and EG for solid waste incineration units pursuant to CAA Sections 111 and 129. Maximum achievable control technology standards for existing HMIWI are set in EG for particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/ dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NOX); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO₂). The standards are applicable based on the year of construction or modification of the incinerator. Affected sources have to comply with the standards by October 6, 2014 at the latest.

Maryland's 111(d)/129 State Implementation Plan (SIP)

This amendment and 111(d)/129 Plan will be submitted to the EPA for approval as part of the 111(d)/129 SIP.

Consideration of Comments

The Department will consider all comments before making a decision to adopt the amendment.



Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

Maryland's 111(d)/129 Plan for Hospital, Medical and Infectious Waste Incinerators



I. Summary

This document serves as the submittal of a 111(d) Emission Limitations, and 129 Solid Waste Combustion Plan (hereafter the Plan) for Maryland Hospital, Medical and Infectious Waste Incineration (HMIWI) units. This Plan is being implemented through adoption of regulations under COMAR 26.11.08.08-2.

The Plan calls for all existing HMIWI units to be in compliance with a set of standards and requirements as expeditiously as practicable by June 15, 2012 or no later than October 6, 2014 if modification or installation of equipment is necessary.

II. Background

EPA is required to develop and adopt new source performance standards (NSPS) and emission guidelines (EG) for solid waste incineration units pursuant to the Clean Air Act (CAA) Sections 111 and 129. New sources (NSPS program) are regulated under Sections 111(b) and 129(a) of the CAA. Existing sources are regulated under Sections 111(d) and 129(b) of the CAA. The NSPS are directly enforceable Federal regulations, and under CAA Section 129(f)(1) become effective 6 months after promulgation. Under CAA Section 129(f)(2), the EG become effective and enforceable as expeditiously as practicable after EPA approves a State plan implementing the EG but no later than 3 years after such approval or 5 years after the date the EG are promulgated, whichever is earlier.

Hospital waste consists of discards generated at a hospital, and medical/infectious waste is generated in the diagnosis, treatment, or immunization of human beings or animals, in research, or in the production or testing of biologicals. Household or hazardous waste, or human and animal remains not generated as medical waste are not included.

Maximum achievable control technology standards for existing HMIWI are established by the EG for particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/ dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NOX); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO₂).

III. The Plan For Implementation of NSPS

COMAR 26.11.01 already incorporates all NSPS by reference. No further modification is required to make the HMIWI standards and requirements applicable to new sources within Maryland.

IV. The Plan For Implementation of the Emission Guidelines

A. General

This Plan adopts a set of emission standards that are identical to those recommended in the emission guidelines of 40 CFR Part 60 Subpart Ce for existing HMIWI units. The mechanism for implementing the emission guidelines is regulation COMAR 26.11.08.08-2. An affected source will be required to achieve final compliance as expeditiously as practicable by June 15, 2012 or no later than October 6, 2014 if modification or installation of equipment is necessary. Compliance schedule requirements are provided in the regulation.

This Plan satisfies the requirements of 129(f)(3), which prohibits a plant from operating if it does not comply with the standard. The Department will notify all known sources that they are subject to the provisions of the regulations pertaining to HMIWIs. The Department will track the schedule of submittals. Affected facilities must also comply with any other applicable Title V operating permit requirements promulgated under 40 CFR Part 70.

B. The Plan includes the following:

1. Inventory of affected incineration units

Name Of Source

a. US Army Fort Detrick

Two medical waste incinerators, each rated at 1,000 lbs/hr

b. Curtis Bay Energy

Two units rated at capacity of 150 tons per day each.

Each unit has tertiary combustion chamber, dry injection acid gas scrubber, powder activated carbon system, and fabric filter with passive dioxins/furans control

2. Inventory of emissions from affected incineration units.

The following table lists the rates and emissions from sources.

Fort Detrick Test Results (February 2012):

Pollutant (units)	New Limits (for existing HMIWI)	Incinerator B5	Incinerator B6
PM (mg/dscm)	25***	27.53	26.9
Opacity (%)	10	0	0
CO (ppm)	11	<1	<1
Dioxin/furans (total)** (ng/dscm)	9.3	5	8.53

Page 4

Dioxin/furans (TEQ)** (ng/dscm)	0.054	(not reported)	(not reported)
HCl (ppm)	6.6	0.733	1.2
SO2 (ppm)	9.0	<1	<1
NOx (ppm)	140	61	76.3
Lead (mg/dscm)	0.036	0.12	0.17
Cadmium (mg/dscm)	0.0092	0.022	0.024
Mercury (mg/dscm)	0.018	0.00133	0.0037

* Ft. Detrick is rated as "Large"-- greater than 500 lbs/hr.

** Dioxin/furans: compliance can be shown with either total or TEQ; does not need to be both.

*** Corrected value of 25 mg/dscm shown.

Curtis Bay Energy Test Results:

Pollutant (units)	New Limits (for existing HMIWI)	Stack test dates: Unit 1		Stack test dates: Unit 2	
	L – CBE is rated as "Large"	Mar 2012	Feb 2011	Oct 2010	Oct 2011
PM (gr/dscf)	0.011	0.0146	0.003	0.0105	0.0018
Opacity(%)	10	0	0	0	0
CO(ppm)	11	RATA* 13.85	RATA* 14.40	RATA* 13.85	RATA* 14.40
Dioxin/furans (total) (ng/dscm)	9.3**	12.7	5.86	6.22	3.97
Dioxin/furans (TEQ)(ng/dscm)	0.054**	0.212	0.09	0.07	0.06
HCL(ppm)	6.6	62.1	93.68	72.96	29.42
SO2 (ppm)	9.0	5.8	16.0	1.88	7.92
NOx (ppm)	140	167.0	166.0	185.0	204.0
Lead (mg/dscm)	0.036	0.038	0.0148	0.0127	0.012
Cadmium (mg/dscm)	0.0092	0.001	0.00115	0.00065	0.001
Mercury(mg/dsc m)	0.018	0.71	0.1172	0.00626	0.011

*RATA conducted Nov. 2010 and Dec. 2011. Values taken from RATAs not EPA Method 10 tests.

** Dioxin/furans: compliance can be shown with either total or TEQ; does not need to be both.

Annual Emissions Reported for 2011:

	NOx	SOx	PM	CO	VOC	HCL	Hg (lb/yr)
Curtis Bay Energy	50.33 (ton/yr)	2.7 (ton/yr)	0.54 (ton/yr)	6.0 (ton/yr)	0 (ton/yr)	5.8 (ton/yr)	2.88 (lb/yr)
Fort Detrick *	1.88 (ton/yr)	1.54 (ton/yr)	0.0 (ton/yr)	0.56 (ton/yr)	0 (ton/yr)	0 (ton/yr)	0 (lb/yr)

* As reported in TEMPO; HMIWI emissions only.

3. Compliance schedules for each affected HMIWI unit

The plan will require existing HMIWI units to comply with the standards and requirements in the regulations in accordance with the compliance schedule as set forth in COMAR 26.11.08.08-2(E). The owners or operators of HMIWI units must achieve final compliance as expeditiously as practicable by June 15, 2012 or no later than October 6, 2014 if modification or installation of equipment is necessary.

The plan is requiring facilities to keep records of and frequency of report submittals in accordance with 40 CFR Part 60.58c(b) through (g), excluding 40 CFR §§60.58c(b)(2)(viii) and (b)(2)(xvii),(b)(2)(xviii) and (b)(2)(xix). These requirements are under COMAR 26.11.08.08-2(B)(6).

4. Emission limitations, operator training and qualification requirements, waste management plan, and operating limits for affected HMIWI

The Plan is based on: 1. The standards and recommendations of 40 CFR 60 Subpart Ce; 2. Training and qualification for HMIWI operators in 40 C.F.R §60.53c; and 3. Waste Management Plan of 40 C.F.R §60.55c.

5. Performance testing, recordkeeping, and reporting requirements

The Plan will use the recommendations of 40 CFR 60 Subpart Ce, and the corresponding NSPS provisions of 40 CFR 60 Subpart Ec, to satisfy the requirements for performance testing, recordkeeping, and reporting requirements.

6. Public Hearing requirements

Certification that a hearing on the Plan was held, a list of witnesses and a summary

of their comments will be provided as part of the Plan. Records will be maintained for a minimum of 2 years and the record shall contain, as a minimum, a list of witnesses together with the text of each presentation in accordance with 40 C.F.R. §60.23(e). Public notice also will meet requirements of 40 C.F.R. §60.23(d)(1)-(5).

7. Progress reports to EPA

The Department will submit to EPA on an annual basis a report that meets the requirements of 40 C.F.R. §60.25(e) and (f). The first progress report will be submitted to EPA one year after the EPA approval of the Plan.

8. Mechanism for implementing the emission guidelines

The mechanism for implementing the guidelines of 40 CFR Part 60 Subpart Ce is to add new regulation COMAR 26.11.08.08-2, which, to the greatest extent possible, incorporates by reference the corresponding sections of 40 CFR Part 60 Subpart Ec, except those sections that do not apply to *existing* HMIWI units.

The Department will notify all known sources that they are subject to the provisions of the regulations pertaining to HMIWI units. All sources of air emissions are required to submit an operating permit prior to operating their source (unless their emissions are not significant). The review of permits for completeness, and for technical adequacy, the procedures to request additional information, the opportunity for public comment, and the issuance or denial of a permit are delineated under COMAR 26.11.02.

9. Demonstration of the Department's legal authority to implement the Plan

The MDE has the authority to adopt and enforce regulations to implement this Plan through the following authority:

Title 2 of the Environment Article, Annotated Code of Maryland, Section 2-103(b) assigns jurisdiction over emissions into the air to the Department. Section 2-301 authorizes the Department to adopt regulations for the control of air pollution in the State.

The Department has sufficient statutory and regulatory authority under its installation permit and operating permit programs to implement the Plan. The Department is authorized to revise any permit to incorporate applicable standards and regulations promulgated under the CAA after issuance of such permit.

Title 2 of the Environment Article, Annotated Code of Maryland, Section 2-602 authorizes the Department to issue enforcement orders to aid in the enforcement of the provisions of the act or its implementing regulations. Such orders may include orders to cease unlawful activities and to take corrective action. The Department also has the authority for modifying, suspending, terminating, or revoking an installation permit or operating permit. In accordance with COMAR 26.11.02.13, no HMIWI unit is allowed to operate in Maryland without an operating permit; the revoking of a permit is the same as shutting down a source. Thus, this Plan satisfies

the requirements of 129(f)(3), which prohibits a plant from operating if it does not comply with the standards and requirements.

10. Rights Retained by the Administrator

The EPA Administrator continues to retain authority for several tasks, as stipulated in 40 C.F.R. §60.50c(i) and listed as follows:

- (1) The requirements of Sec. 60.56c(i) establishing operating parameters when using controls other than those listed in Sec. 60.56c(d).
- (2) Approval of alternative methods of demonstrating compliance under § 60.8 including:
 - (i) Approval of CEMS for PM, HCl, multi-metals, and Hg where used for purposes of demonstrating compliance,
 - (ii) Approval of continuous automated sampling systems for dioxin/furan and Hg where used for purposes of demonstrating compliance, and
 - (iii) Approval of major alternatives to test methods;
- (3) Approval of major alternatives to monitoring;
- (4) Waiver of recordkeeping requirements; and
- (5) Performance test and data reduction waivers under § 60.8(b).

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

26.11.08 Control of Incinerators

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 2-406, 10-102, and 10-103, Annotated Code of Maryland

Notice of Final Action [12-198-F]

On October 23, 2012, the Secretary of the Environment adopted amendments to Regulation .08-2 under **COMAR 26.11.08 Control of Incinerators**. This action, which was proposed for adoption in 39:16 Md. R. 1119—1120 (August 10, 2012), has been adopted as proposed.

Effective Date: November 26, 2012.

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Title 29 DEPARTMENT OF STATE POLICE

Subtitle 06 FIRE PREVENTION COMMISSION

Notice of Final Action [12-222-F-I]

On October 31, 2012, the Secretary of State Police adopted:

(1) Amendments to Regulations .02, .06—, .10, and .14 and the repeal of Regulation .12 under **COMAR 29.06.01 Fire Prevention Code**;

(2) The repeal of Regulations .01—.04 under **COMAR 29.06.03 Approval of Testing Laboratories**; and

(3) Amendments to Regulations .03—.05, .07—.10, .12, .14, and .15 and the repeal of Regulations .11 and .16 under **COMAR 29.06.07 Ground-Based Sparkling Devices**.

This action, which was proposed for adoption in 39:17 Md. R. 1169—1173 (August 24, 2012), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 1, 2013.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

COMAR 29.06.01.08J: the paragraph reference number in the National Fire Protection Association 1 Fire Code is corrected to be 3.3.182.22.

29.06.01 Fire Prevention Code

Authority: Public Safety Article, §§6-206 and 6-501, Annotated Code of Maryland

.08 National Fire Protection Association 1 Fire Code.

A.—I. (proposed text unchanged)

J. Amend Paragraph [[3.182.22]] 3.3.182.22 to replace “three” with “five” and delete “, if any, accommodated in rented rooms”.

J-1 .—EEE. (proposed text unchanged)

MARCUS L. BROWN
Secretary of State Police



NO ONE ATTENDED THE PUBLIC HEARING

AND

NO COMMENTS WERE RECEIVED
DURING THE 30-DAY COMMENT PERIOD

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. Without this amendment, the unintended consequence of the revised definition of NESHAP source will require businesses to obtain a permit to construct for sources which previously were exempted.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on September 12, 2012, at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than September 12, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

.09 Sources Subject to Permits to Construct and Approvals.

A. A person may not construct or modify or cause to be constructed or modified any of the following sources without first obtaining, and having in current effect, the specified permits to construct and approvals:

(1) —(3) (text unchanged)

(4) National Emission Standards for Hazardous Air Pollutants Source (NESHAP source), as defined at COMAR [26.11.01.01] 26.11.01.01B(21)(a) — permit to construct required, except for generating stations constructed by electric companies;

(5) —(6) (text unchanged)

B. — D. (text unchanged)

ROBERT M. SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 11 AIR QUALITY

26.11.08 Control of Incinerators

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 2-406, 10-102, and 10-103, Annotated Code of Maryland

Notice of Proposed Action

[12-198-P]

The Secretary of the Environment proposes to amend Regulation **.08-2** under **COMAR 26.11.08 Control of Incinerators**.

Statement of Purpose

The purpose of this action is to amend the requirements pertaining to the compliance schedule for hospital, medical, infectious and medical waste incinerators (HMIWI) that are required to comply with COMAR 26.11.08-2.

Based on testing and analysis conducted by affected sources, flexibility in meeting the interim compliance dates is needed to better accomplish and optimize the required level of control and achieve compliance by October 6, 2014. The type of technologies being explored require frequent modifications and adjustments before they can perform at optimal level. While the results show that compliance with the compliance date is feasible, the interim dates may deter the research and development of compliance options. The proposed amendment allows a source to propose and follow an alternate plan and schedule for meeting the October 6, 2014 compliance date.

This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's 111(d) Plan.

Background

EPA is required to develop and adopt new source performance standards (NSPS) and EG for solid waste incineration units pursuant to CAA Sections 111 and 129. New sources (NSPS program) are regulated under Sections 111(b) and 129(a) of the CAA. Existing sources are regulated under Sections 111(d) and 129(b) of the CAA. The NSPS are directly enforceable Federal regulations, and under CAA Section 129(f)(1) become effective 6 months after promulgation. Under CAA Section 129(f)(2), the EG become effective and enforceable as expeditiously as practicable after EPA approves a State plan implementing the EG but no later than 3 years after such approval or 5 years after the date the EG are promulgated, whichever is earlier.

Hospital waste consists of discards generated at a hospital, and medical/infectious waste is generated in the diagnosis, treatment, or immunization of human beings or animals, in research, or in the production or testing of biologicals. Household or hazardous waste, or human and animal remains not generated as medical waste are not included.

Maximum achievable control technology standards for existing HMIWI are set in EG for particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/ dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NO_x); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO₂).

Affected Sources and Location

The proposed amendments affect HMIWIs in Maryland.

Requirements

The proposed amendments require HMIWIs in Maryland to submit to the Department an alternative compliance plan that meets the requirements of the regulation by no later than October 6, 2014.

1120

Expected Emissions Reductions

As result of adopting an alternate compliance plan, the final compliance date is not changed and therefore there will be no impact on the emissions.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

The Department of the Environment will hold a public hearing on the proposed action on September 12, 2012, at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us. Comments must be received not later than September 12, 2012, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations: The Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service

.08-2 Emission Standards and Requirements for HMIWIs Under 40 CFR 60 Subpart Ce as Revised October 6, 2009.

A. — D. (text unchanged)

E. Compliance Schedules.

(1) A person who owns or operates a HMIWI subject to this regulation shall:

[(1)] (a) (text unchanged)

[(2)] (b) Submit to the Department and the EPA for approval, a compliance plan by December 15, 2011 that includes the following increments of progress:

[(a)] (i) — [(e)] (v) (text unchanged)

(2) *A person who anticipates an inability to comply with the interim compliance dates described in §E(1)(b)(i) — (iii) of this regulation may submit to the Department and the EPA an alternative compliance plan designed to achieve compliance with §E(1)(b)(iv) — (v) of this regulation, and shall be bound by such plan upon the Department's and the EPA's approval.*

F. — H. (text unchanged)

ROBERT M SUMMERS, Ph.D.
Secretary of the Environment

Subtitle 11 AIR QUALITY**Notice of Proposed Action**

[12-195-P]

The Secretary of the Environment proposes to:

(1) Amend Regulation .08 under COMAR 26.11.09 **Control of Fuel-Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations**; and

(2) Amend Regulations .06 and .07 and adopt new Regulation .08 under COMAR 26.11.14 **Control of Emissions from Kraft Pulp Mills**.

Statement of Purpose

The purpose of this action is to accurately describe the Volatile Organic Compound (VOC) control system and requirements, to incorporate existing NO_x RACT requirements into these regulations, to amend the use of the word "allowance" to read "NO_x Ozone Season Allowance", to clarify that the Monitoring and Reporting Requirements apply to the owner of a boiler and combustion turbine at a Kraft pulp mill, and to include emission limits for sulfur dioxide that were part of a consent order with the Department and New Page Corporation (formerly Luke Paper Co.).

This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan.

Background**NO_x Emissions**

The NO_x emissions discharge through a common stack and are currently subject to reasonably available control technology (RACT) requirements under COMAR 26.11.09.08 and 26.11.14.07A(2)(b) respectively. RACT requires the units to reduce NO_x emissions to meet an emissions rate of 0.70 pounds per million Btu during the period May 1 to September 30 (ozone season) of each year and a rate of 0.99 pounds per million Btu for the rest of the year. COMAR 26.11.14.07 prohibits total NO_x ozone season emissions from the New Page Kraft pulp mill stack from exceeding 947 tons, unless the pulp mill acquires an allowance for each ton of NO_x they emit over 947 tons. The regulation allows the pulp mill to secure up to 95 allowances for each period in which they exceed the 947 ton emission cap.

VOC Emissions

In 2001, Regulation .06 (Control of Volatile Organic Compounds) was added to COMAR 26.11.14 for the control of VOC emissions from several process installations at Kraft pulp mills. The regulation established RACT standards to specifically control VOC emissions from Kraft pulp mill operations statewide that have actual emissions of 20 pounds or more of VOCs per day and the potential to emit total plant-wide VOC emissions of 25 tons or more per year. In addition, Kraft pulp mills are required to install VOC emission controls to meet the requirements of the Paper and Pulp MACT (40 CFR Part 63, Subpart S).

Sulfur Dioxide Emissions

The applicable control requirements for SO₂ consist primarily of a September 6, 1983 consent order entered into by and between the Department and the New Page Corporation located in Luke, Maryland. The consent order established SO₂ emission limits for all fuel burning equipment at the facility.

Sources Affected and Location

This amendment affects two coal fired units and one gas fired unit at the Kraft pulp mill located in Luke, Maryland.

MARYLAND

Submittal # 12 – 11

PART 2

111(d)/129 Plan for HMIWIs

and

Amendments to the Requirements pertaining to the Compliance Schedule for HMIWIs

Prepared by:



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101 • www.mde.state.md.us



TECHNICAL SUPPORT DOCUMENT

Amendments to COMAR 26.11.08 Control of Incinerators

Purpose of Amendments

The purpose of this action is to amend the requirements pertaining to the compliance schedule for hospital, medical, infectious and medical waste incinerators (HMIWI) that are required to comply with COMAR 26.11.08.08-2.

Background

EPA is required to develop and adopt new source performance standards (NSPS) and EG for solid waste incineration units pursuant to CAA Sections 111 and 129. New sources (NSPS program) are regulated under Sections 111(b) and 129(a) of the CAA. Existing sources are regulated under Sections 111(d) and 129(b) of the CAA. The NSPS are directly enforceable Federal regulations, and under CAA Section 129(f)(1) become effective 6 months after promulgation. Under CAA Section 129(f)(2), the EG become effective and enforceable as expeditiously as practicable after EPA approves a State plan implementing the EG but no later than 3 years after such approval or 5 years after the date the EG are promulgated, whichever is earlier.

Hospital waste consists of discards generated at a hospital, and medical/infectious waste is generated in the diagnosis, treatment, or immunization of human beings or animals, in research, or in the production or testing of biologicals. Household or hazardous waste, or human and animal remains not generated as medical waste are not included.

Maximum achievable control technology standards for existing HMIWI are set in EG for particulate matter (PM); heavy metals, including lead (Pb), cadmium (Cd), and mercury (Hg); toxic organics, including chlorinated dibenzo-p-dioxins/ dibenzofurans (CDD/CDF); carbon monoxide (CO); nitrogen oxides (NOX); and acid gases, including hydrogen chloride (HCl) and sulfur dioxide (SO₂).

Based on testing and analysis conducted by affected sources, flexibility in meeting the interim compliance dates is needed to better accomplish and optimize the required level of control and achieve compliance by October 6, 2014. The type of technologies being explored require frequent modifications and adjustments before they can perform at optimal level. While the results show that meeting the standards with the compliance date is feasible, the interim dates may deter the research and development of compliance options. The proposed amendment allows a source to propose and follow an alternate plan and schedule for meeting the October 6, 2014 compliance date.

Affected Sources and Location

The proposed amendments affect HMIWIs in Maryland.

Requirements

The proposed amendments require HMIWIs in Maryland to submit to the Department an alternative compliance plan that meets the requirements of the regulation by no later than October 6, 2014.

Expected Emissions Reductions

Minimal emissions reductions in Maryland are expected as a result of adopting the proposed standards. Maryland sources have already applied control technologies to the incineration process and to post incineration emissions. Integration and optimization of the performance of these technologies has also taken place. Controls such as tertiary combustion chamber, dry injection acid gas scrubber, powder activated carbon system, and fabric filter with passive dioxins/furans control are utilized. Maryland sources have already been controlled under COMAR 26.11.08.08-1 in conformance with the initial 1997 MACT standards.

In the MACT review process for the 2009 standards, performance and test results of all sources nationwide were taken into account. Since Maryland sources have already added control technologies, they perform well on a national level and stack test results show that their performance is currently very close to the 2009 MACT standards. Based on the emission levels during stack tests, Maryland HMIWIs would be able to meet most of the standards with the current technologies. For NO_x and HCL further improvements and enhancements would have to be investigated and tested. Emission reductions are expected as a result of adopting these two standards in particular. Emissions are expected to be minimally reduced for the remaining pollutants as a result of implementing the proposed standards. The benefit will be provided throughout the year by reducing criteria pollutants and toxic emissions.

Comparison to Federal Standards

This action is not more restrictive or stringent than the corresponding federal standards.

Economic Impact on Affected Sources

The economic impact of these amendments has been estimated by EPA on a national level. Cost impact on sources that are owned by hospitals is expected to range between 0.1 to 0.9 percent of sales (an average cost for incinerator would be approximately \$250,000 — \$280,000 per year in the first three years). Commercial incinerators have cost impacts that are no more than 2 percent of sales. The economic impact on the Department is going to be minimal in modifying the standards and ensuring compliance. There will be minimal to no impact on other state agencies and local jurisdictions as some permitting work may be necessary.

Economic Impact on Small Businesses

The Department is unaware of any small business in Maryland that is affected by these amendments.

Submission to EPA as Revision to Maryland's SIP (or 111(d) Plan, or Title V Program)

This action will be submitted to EPA as a revision to the 111(d)/129 Plan.

Reference 40 CFR Part 60 Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/ Medical/Infectious Waste Incinerators; Final Rule



Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Acting Secretary

Anthony G. Brown
Lieutenant Governor

July 26, 2012

CERTIFICATE OF PUBLICATION

This is to certify that the "Maryland Department of the Environment (MDE) Notice of Public Hearing concerning the following proposed actions: Amend COMAR 26.11.02.09; Amend COMAR 26.11.09.08; amend COMAR 26.11.14.06 - .07, adopt new 26.11.14.08; Repeal existing COMAR 26.11.29 and adopt new COMAR 29.11.29; Amend COMAR 26.11.09.08; adopt new COMAR 26.11.30; COMAR 26.11.08.08-2 amendment and 111(d) Plan was published on MDE's web site on July 25, 2012. It will remain posted on the site until September 12, 2012. The notice in full with links to supporting documents may be found in the following web address:

<http://www.mde.state.md.us/AboutMDE/pages/reqcomments.aspx>

Web publication of the notice was at the request of Deborah Rabin, Regulations Coordinator of the Air and Radiation Management Administration of MDE.

By:



JOSEPH E. HERB, JR.
MDE Webmaster

Attachments:

Copy of web page as published.





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MDE Public Meetings, Hearings and Request for Comments

MDE Calendar

The complete listing of MDE public meetings and hearings is posted in the [MDE Calendar](#). Please call or email contact person cited in the meeting details for any questions or to send a comment.

Notice of Public Hearings Concerning Proposed Amendments to Air Quality Regulations and New Regulations

The Maryland Department of the Environment gives notice of public hearings concerning the following proposed actions:

1. **Amend COMAR 26.11.02.09** (sources subject to permits to construct and approvals) to correct an unintended consequence of a recent amendment to COMAR 26.11.01.01. The amendment to the definition of a NESHAP source that became effective on March 5, 2012 expands the universe of sources required to obtain a permit to construct under COMAR 26.11.02.09;
[\(Technical Support Document\)](#)
2. **Amend COMAR 26.11.09.08; amend COMAR 26.11.14.06 - .07, adopt new 26.11.14.08** (Kraft Pulp Mill requirements) to accurately describe the VOC control system and requirements, to incorporate existing NOx RACT requirements into this Chapter, to clarify Monitoring and Reporting Requirements, and to include emission limits for sulfur dioxide that were part of a consent order with the Department and New Page;
[\(Technical Support Document\)](#)
3. **Repeal existing COMAR 26.11.29 and adopt new COMAR 29.11.29** to maintain and consolidate NOx emission requirements for internal combustion engines used to compress natural gas located at natural gas pipeline compression stations. These NOx emission requirements were approved as RACT by the U.S. EPA under the NOx SIP Call for affected nontrading sources;
[\(Technical Support Document\)](#)
4. **Amend COMAR 26.11.09.08; adopt new COMAR 26.11.30** to:
(a) combine all of the existing requirements in COMAR 26.11.01, .06, and .29 regarding NOx, SOx and particulate matter that apply to Portland cement manufacturing plants into one chapter;
(b) repeal old NOx RACT requirements in COMAR 26.11.09.08 which apply to Portland cement manufacturing plants; and
(c) establish procedures for Portland cement manufacturing plants to demonstrate compliance with visible emissions requirements using COM data and compliance with NOx emission requirements using CEM data
[\(Technical Support Document\)](#)
5. **COMAR 26.11.08.08-2 amendment and 111(d) Plan** pertaining to the compliance schedule for hospital, medical, infectious and medical waste (HMIWI) incinerators and the HMIWI requirement 111(d) Plan. Based on testing and analysis conducted by affected sources, flexibility in meeting the interim compliance dates is needed to better accomplish and optimize the required level of control and achieve compliance by October 6, 2014. The proposed amendment allows a source to propose and follow an alternate plan and schedule for meeting the October 6, 2014 compliance date.
[\(Technical Support Document\)](#)

Actions #1 - #4 will be submitted to the U.S. EPA for approval as revisions to Maryland's State Implementation Plan. Action #5 will be submitted to the U.S. EPA for approval under Sections 111(d)/129 of the Clean Air Act.

The full text of the proposed amendments and new regulations will appear in the Maryland Register at <http://www.dsd.state.md.us/mdregister/> on **August 10, 2012**.

Public hearings on the 5 actions will be held on **September 12, 2012** at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720.

Comments must be received not later than **September 12, 2012**, or be submitted at the hearing. For more information or to submit comments, call/e-mail/ fax:

Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration
Department of the Environment
1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720
Telephone: (410) 537-3240
Email: drabin@mde.state.md.us
Fax: (410) 537-4223

Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Antietam Creek watershed, Washington County, Maryland

A 30-day public comment period for the draft document will take place from July 16, 2012 to August 15, 2012. Copies of the draft documents have been placed in the Washington County Free Library- Keedysville Branch (22 Taylor Dr., Keedysville, MD 21756) and the Washington County Free Library- Boonsboro Branch (19 N Main St., Boonsboro, MD 21713). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/SSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 15, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

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Case 1:19-cv-01264 Document 1-4 Filed 04/30/19 Page 85 of 86
Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Catoctin Creek watershed, Frederick County, Maryland

A 30-day public comment period for the draft document will take place from July 16, 2012 to August 15, 2012. Copies of the draft documents have been placed in the Frederick County Public Library- C. Burr Artz Public Library (110 E Patrick St., Frederick, MD 21701). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/SSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 15, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Rock Creek watershed, Montgomery County, Maryland

A 30-day public comment period for the draft document will take place from July 16, 2012 to August 15, 2012. Copies of the draft documents have been placed in the Montgomery County Public Library- Rockville Branch (99 Maryland Ave., Rockville, MD 20850). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/TARSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 15, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Double Pipe Creek watershed, Carroll and Frederick Counties, Maryland.

A 30-day public comment period for the draft document will take place from July 23, 2012 to August 22, 2012. Copies of the draft documents have been placed in the Frederick County Public Library- C. Burr Artz Public Library (110 E Patrick St., Frederick, MD 21701) and Carroll County Public Library- Westminster Branch (50 E. Main St., Westminster, MD 21157). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/SSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 22, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

Notice of Intent to Establish a Total Maximum Daily Load of Nutrients (Phosphorus) in the Upper Monocacy River watershed, Frederick and Carroll Counties, Maryland.

A 30-day public comment period for the draft document will take place from July 26, 2012 to August 24, 2012. Copies of the draft documents have been placed in the Frederick County Public Library- C. Burr Artz Public Library (110 E Patrick St., Frederick, MD 21701) and Carroll County Public Library- Westminster Branch (50 E. Main St., Westminster, MD 21157). The draft document is also available on the Internet at: <http://www.mde.state.md.us/programs/Water/TMDL/Pages/Programs/WaterPrograms/tmdl/index.aspx> or by contacting Mr. Tony Allred by mail at MDE/SSA, 1800 Washington Boulevard, Suite 540, Baltimore MD 21230-1718, or by telephone at 410-537-3582 (outside the Baltimore area, dial 1-800-633-6101, x3582). Anyone wishing to review the draft document and supporting information or needing technical information may contact Mr. Allred during normal business hours.

Written comments concerning the draft document may be submitted to the Department on or before **August 24, 2012** and should be sent to Mr. Allred at the above address or emailed to tallred@mde.state.md.us. All comments received during the comment period will be considered and the draft document may be revised accordingly prior to its submittal to EPA for approval.

Notice of Public Hearings Concerning Proposed Amendments to Air Quality Regulations and Revisions to Maryland's State Implementation Plan

The Maryland Department of the Environment gives notice of public hearings concerning the following actions:

1. Proposal to amend Regulation .03 and repeal Regulations .04 - .09 under COMAR 26.11.04 Ambient Air Quality Standards. The purpose of this action is to adopt the following revised National Ambient Air Quality Standards (NAAQS) as required by Section 2-302 (c) of the Environment Article of the Annotated Code of Maryland:

- the 2006 revised NAAQS for particulate matter (PM) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50, 53, and 58.
- the 2010 revised NAAQS for sulfur dioxide (SO₂) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50, 53 and 58.
- the 2008 NAAQS for ground-level ozone (O₃) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50 and 58.
- the 2010 revised NAAQS for nitrogen dioxide (NO₂) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50 and 58.
- the 2008 NAAQS for lead (Pb) and update the definitions, reference conditions, and methods of measurement as specified in 40 CFR Parts 50, 51, 53 and 58.

In this regulatory action the NAAQS are being incorporated by reference prospectively in order for Maryland's ambient air quality standards to be identical to the federal standards at all times.

[\(Technical Support Document\)](#)

This action will be submitted to the U.S. Environmental Protection Agency for approval as part of Maryland's State Implementation Plan.

2. Proposal to adopt new Regulation .27-1 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes. The purpose of this action is to adopt the requirements of the EPA's Control Techniques Guidelines (CTG) for miscellaneous metal and plastic parts which include controls for pleasure craft coating operations. EPA develops CTGs as guidance on control requirements for source categories. States can follow the CTGs or adopt more restrictive standards. MDE proposes to adopt new standards and requirements that have been developed in coordination with EPA and trade associations representing the pleasure craft industry.

[\(Technical Support Document\)](#)

This action will be submitted to the U.S. Environmental Protection Agency for approval as part of Maryland's State Implementation

3. Proposal to remove the Board of Education of Allegheny County's 1979 Consent Order from the State Implementation Plan. The coal-fired boiler located at Beall High School has been demolished along with the entire school. The Department issued a construction permit for a 15.5 million BTU per hour coal fired boiler on February 6, 1979.

([Fact Sheet](#)) ([Consent Order](#))

This action will be submitted to the U.S. Environmental Protection Agency for approval as a revision to Maryland's State Implementation Plan.

4. Proposal to remove the Saint Mary's College 1979 Consent Order from the State Implementation Plan. The coal-fired F. Keeler Company Boiler has been modified by removing the coal firing capability and converting the boiler to mainly fire natural gas with No. 2 fuel oil backup. The Department issued a construction permit for this modification on July 18, 2000.

([Fact Sheet](#)) ([Permit Application](#)) ([Permit Modification](#)) ([Consent Order](#))

This action will be submitted to the U.S. Environmental Protection Agency for approval as a revision to Maryland's State Implementation Plan.

The full text of the proposed amendments and new regulation listed under **#1** and **#2** will appear in the Maryland Register at <http://www.dsd.state.md.us/mdregister> on June 15, 2012.

Public hearings on the four (4) proposed actions listed above will be held on **July 18, 2012** at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720.

The proposed actions and supporting documents are also available for review at the following locations: the Air and Radiation Management Administration; regional offices of the Department in Cumberland and Salisbury; all local air quality control offices; and local health departments in those counties not having separate air quality control offices.

Interested persons are invited to attend and express their views. Comments may be mailed to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to drabin@mde.state.md.us, or faxed to (410) 537-4223. Comments must be received not later than **July 18, 2012**, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Anyone needing special accommodations at a public hearing should contact the Department's Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

Response to Comments for Selected Public Hearings

- [Response to comments for the public hearing held on July 11, 2011 for COMAR 26.11.19.11- Related to Volatile Organic Compounds from Specific Processes- Lithographic and Letterpress Printing](#)
- [Response to comments for the public hearing held on July 11, 2011 for COMAR 26.11.19.23- Related to Control of VOC Emissions from Vehicle Refinishing](#)

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1800 Washington Boulevard, Baltimore, MD 21230 | (410) 537-3000

Exhibit D

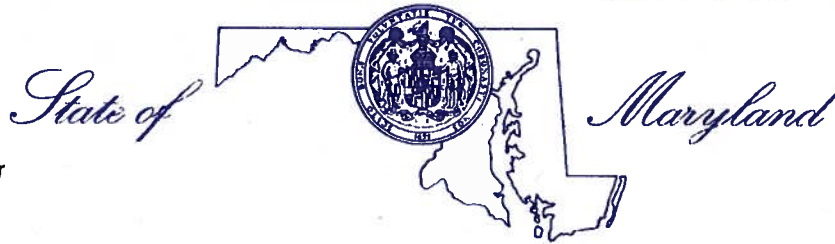
KEEP PERMIT AT SITE

CONTROL NO. B- 05757

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary



DEPARTMENT OF THE ENVIRONMENT

Air and Radiation Administration
1800 Washington Boulevard, Suite 720
Baltimore, MD 21230

☐ Construction Permit

Part 70
☒ Operating Permit

PERMIT NO. 24-510-2975

DATE ISSUED May 1, 2019

PERMIT FEE To be paid in accordance
with COMAR 26.11.02.19B

EXPIRATION DATE January 31, 2024

LEGAL OWNER & ADDRESS

Baltimore Regional Medical Waste Incinerator
Curtis Bay Energy, Limited Partnership
3200 Hawkins Point Road
Baltimore, MD 21226
Attn: Mr. Kenneth Jackson, Director of
Operations

SITE

Same
Baltimore City
Premises # 2975
AI # 439

SOURCE DESCRIPTION

Hospital Medical and Infectious Waste Incinerator (HMIWI) facility rated at 150 tons/day.

This source is subject to the conditions described on the attached pages.

Page 1 of 58


Program Manager


Director, Air and Radiation Administration

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

SECTION I	SOURCE IDENTIFICATION	4
1.	DESCRIPTION OF FACILITY	4
2.	FACILITY INVENTORY LIST	4
SECTION II	GENERAL CONDITIONS	6
1.	DEFINITIONS	6
2.	ACRONYMS	6
3.	EFFECTIVE DATE	7
4.	PERMIT EXPIRATION	7
5.	PERMIT RENEWAL	7
6.	CONFIDENTIAL INFORMATION	8
7.	PERMIT ACTIONS	8
8.	PERMIT AVAILABILITY	9
9.	REOPENING THE PART 70 PERMIT FOR CAUSE BY THE EPA	9
10.	TRANSFER OF PERMIT	9
11.	REVISION OF PART 70 PERMITS – GENERAL CONDITIONS	9
12.	SIGNIFICANT PART 70 OPERATING PERMIT MODIFICATIONS	10
13.	MINOR PERMIT MODIFICATIONS	11
14.	ADMINISTRATIVE PART 70 OPERATING PERMIT AMENDMENTS	13
15.	OFF-PERMIT CHANGES TO THIS SOURCE	15
16.	ON-PERMIT CHANGES TO SOURCES	16
17.	FEE PAYMENT	17
18.	REQUIREMENTS FOR PERMITS-TO-CONSTRUCT AND APPROVALS	18
19.	CONSOLIDATION OF PROCEDURES FOR PUBLIC PARTICIPATION	19
20.	PROPERTY RIGHTS	19
21.	SEVERABILITY	19
22.	INSPECTION AND ENTRY	19
23.	DUTY TO PROVIDE INFORMATION	20
24.	COMPLIANCE REQUIREMENTS	20
25.	CREDIBLE EVIDENCE	21
26.	NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE	21
27.	CIRCUMVENTION	21
28.	PERMIT SHIELD	21
29.	ALTERNATE OPERATING SCENARIOS	22
SECTION III	PLANT WIDE CONDITIONS	23
1.	PARTICULATE MATTER FROM CONSTRUCTION AND DEMOLITION	23
2.	OPEN BURNING	23
3.	AIR POLLUTION EPISODE	23
4.	REPORT OF EXCESS EMISSIONS AND DEVIATIONS	23
5.	ACCIDENTAL RELEASE PROVISIONS	24
6.	GENERAL TESTING REQUIREMENTS	24
7.	EMISSIONS TEST METHODS	25
8.	EMISSIONS CERTIFICATION REPORT	25
9.	COMPLIANCE CERTIFICATION REPORT	26
10.	CERTIFICATION BY RESPONSIBLE OFFICIAL	27
11.	SAMPLING AND EMISSIONS TESTING RECORD KEEPING	27
12.	GENERAL RECORDKEEPING	28

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

13.	GENERAL CONFORMITY	28
14.	ASBESTOS PROVISIONS	28
15.	OZONE DEPLETING REGULATIONS	29
16.	ACID RAIN PERMIT	29
SECTION IV	PLANT SPECIFIC CONDITIONS.....	30
SECTION V	INSIGNIFICANT ACTIVITIES	56
SECTION VI	STATE-ONLY ENFORCEABLE CONDITIONS.....	57

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}**3200 HAWKINS POINT ROAD****BALTIMORE, MARYLAND 21226****PART 70 OPERATING PERMIT NO. 24-510-2975****SECTION I SOURCE IDENTIFICATION****1. DESCRIPTION OF FACILITY**

Curtis Bay Energy, Limited Partnership ("Curtis Bay Energy") owns and operates a medical waste incinerator facility located at 3200 Hawkins Point Road in Baltimore City. Medical Waste Associates, Limited Partnership was the original owner of the facility. Phoenix Services, Limited Partnership acquired ownership of the facility in 1995. Phoenix Services changed its name to Curtis Bay Energy, Limited Partnership in February 2005. The SIC code for the facility is 4953.

Curtis Bay Energy operates two identical incineration units (EU-1 and EU-2), which are permitted to incinerate a maximum of 150 tons per day total for the entire facility. The two incineration units share a common stack. Each incinerator has its own air pollution control system with a system of dampers that allow either air pollution control train to be used with either incinerator. Each incinerator is equipped with secondary and tertiary combustion chambers, heat recovery boiler, selective non-catalytic reduction (SNCR) for NOX control, a dry injection acid gas scrubber, a powder activated carbon injection (PAC) system, and a fabric filter with passive dioxins/furans emissions control. Each incineration unit is also equipped with an emergency stack for venting combustion gas in emergency situations such as electrical power outages. There is a Continuous Opacity Monitor (COM) and Continuous Emission Monitoring Systems (CEMS) for monitoring the carbon monoxide (CO) and hydrogen chloride (HCl), nitrogen oxides (NOX), carbon Dioxide CO₂, and oxygen (O₂) content of the stack exhaust gases.

2. FACILITY INVENTORY LIST

MDE Registration Number	Emissions Unit Number	Emissions Unit Name	Emissions Unit Description	Date of Installation
2-0279	EU-1	Unit 1	Consumat Medical Waste Incinerator equipped with a heat recovery boiler and controlled by a dual train dry scrubber/Gore® Reactive catalyst fabric filter baghouse or equivalent control technology with prior approval from the Department and an activated carbon injection system.	1991
2-0279	EU-2	Unit 2	Consumat Medical Waste Incinerator equipped with a heat recovery boiler and a dual train dry scrubber/Gore® Reactive catalyst fabric filter baghouse or equivalent control technology with prior approval from the Department and an activated	1991

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

			carbon injection systems	
2-0279	EU-3 EU-4	Storage Silos	Two storage Silos feeding alkaline sorbent material to either Unit 1 or Unit 2 dry scrubber.	2014

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

SECTION II GENERAL CONDITIONS

1. DEFINITIONS

[COMAR 26.11.01.01] and [COMAR 26.11.02.01]

The words or terms in this Part 70 permit shall have the meanings established under COMAR 26.11.01 and .02 unless otherwise stated in this permit.

2. ACRONYMS

ARA	Air and Radiation Administration
BACT	Best Available Control Technology
Btu	British thermal unit
CAA	Clean Air Act
CAM	Compliance Assurance Monitoring
CEM	Continuous Emissions Monitor
Cd	Cadmium
CFR	Code of Federal Regulations
CO	Carbon Monoxide
COMAR	Code of Maryland Regulations
EPA	United States Environmental Protection Agency
FR	Federal Register
gr	grains
HAP	Hazardous Air Pollutant
HCl	Hydrogen Chloride
Hg	Mercury
HWIWI	Hospital/Medical/Infectious Waste Incinerator
MACT	Maximum Achievable Control Technology
MDE	Maryland Department of the Environment
MVAC	Motor Vehicle Air Conditioner
NESHAPS	National Emission Standards for Hazardous Air Pollutants
NO _x	Nitrogen Oxides
NSPS	New Source Performance Standards
NSR	New Source Review
O ₂	Oxygen
OTR	Ozone Transport Region
PAC	Powder Activated Carbon
Pb	Lead
PM	Particulate Matter
PM10	Particulate Matter with Nominal Aerodynamic Diameter of 10 micrometers or less
ppm	parts per million
ppb	parts per billion
PSD	Prevention of Significant Deterioration
PTC	Permit to construct
PTO	Permit to operate (State)

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

RACT	Reasonable Available Control Technology
SIC	Standard Industrial Classification
SIP	State Implementation Plan
SNCR	Selective Noncatalytic Reduction
SO ₂	Sulfur Dioxide
TAP	Toxic Air Pollutant
tpy	tons per year
VE	Visible Emissions
VOC	Volatile Organic Compounds

3. EFFECTIVE DATE

The effective date of the conditions in this Part 70 permit is the date of permit issuance, unless otherwise stated in the permit.

4. PERMIT EXPIRATION

[COMAR 26.11.03.13B(2)]

Upon expiration of this permit, the terms of the permit will automatically continue to remain in effect until a new Part 70 permit is issued for this facility provided that the Permittee has submitted a timely and complete application and has paid applicable fees under COMAR 26.11.02.16.

Otherwise, upon expiration of this permit the right of the Permittee to operate this facility is terminated.

5. PERMIT RENEWAL

[COMAR 26.11.03.02B(3)] and [COMAR 26.11.03.02E]

The Permittee shall submit to the Department a completed application for renewal of this Part 70 permit at least 12 months before the expiration of the permit. Upon submitting a completed application, the Permittee may continue to operate this facility pending final action by the Department on the renewal.

The Permittee, upon becoming aware that any relevant facts were omitted or incorrect information was submitted in the permit application, shall submit such supplementary facts or corrected information no later than 10 days after becoming aware that this occurred. The Permittee shall also provide additional information as necessary to address any requirements that become applicable to the facility after the date a completed application was submitted, but prior to the release of a draft permit. This information shall be submitted to the Department no later than 20 days after a new requirement has been adopted.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

6. CONFIDENTIAL INFORMATION

[COMAR 26.11.02.02G]

In accordance with the provisions of the State Government Article, Sec. 10-611 et seq., Annotated Code of Maryland, all information submitted in an application shall be considered part of the public record and available for inspection and copying, unless the Permittee claims that the information is confidential when it is submitted to the Department. At the time of the request for inspection or copying, the Department will make a determination with regard to the confidentiality of the information. The Permittee, when requesting confidentiality, shall identify the information in a manner specified by the Department and, when requested by the Department, promptly provide specific reasons supporting the claim of confidentiality. Information submitted to the Department without a request that the information be deemed confidential may be made available to the public. Subject to approval of the Department, the Permittee may provide a summary of confidential information that is suitable for public review. The content of this Part 70 permit is not subject to confidential treatment.

7. PERMIT ACTIONS

[COMAR 26.11.03.06E(3)] and [COMAR 26.11.03.20(A)]

This Part 70 permit may be revoked or reopened and revised for cause. The filing of an application by the Permittee for a permit revision or renewal; or a notification of termination, planned changes or anticipated noncompliance by the facility, does not stay a term or condition of this permit.

The Department shall reopen and revise, or revoke the Permittee's Part 70 permit under the following circumstances:

- a. Additional requirements of the Clean Air Act become applicable to this facility and the remaining permit term is 3 years or more;
- b. The Department or the EPA determines that this Part 70 permit contains a material mistake, or is based on false or inaccurate information supplied by or on behalf of the Permittee;
- c. The Department or the EPA determines that this Part 70 permit must be revised or revoked to assure compliance with applicable requirements of the Clean Air Act; or
- d. Additional requirements become applicable to an affected source under the Federal Acid Rain Program.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

8. PERMIT AVAILABILITY

[COMAR 26.11.02.13G]

The Permittee shall maintain this Part 70 permit in the vicinity of the facility for which it was issued, unless it is not practical to do so, and make this permit immediately available to officials of the Department upon request.

9. REOPENING THE PART 70 PERMIT FOR CAUSE BY THE EPA

[COMAR 26.11.03.20B]

The EPA may terminate, modify, or revoke and reissue a permit for cause as prescribed in 40 CFR §70.7(g)

10. TRANSFER OF PERMIT

[COMAR 26.11.02.02E]

The Permittee shall not transfer this Part 70 permit except as provided in COMAR 26.11.03.15.

11. REVISION OF PART 70 PERMITS – GENERAL CONDITIONS

[COMAR 26.11.03.14] and [COMAR 26.11.03.06A(8)]

- a. The Permittee shall submit an application to the Department to revise this Part 70 permit when required under COMAR 26.11.03.15 -.17.
- b. When applying for a revision to a Part 70 permit, the Permittee shall comply with the requirements of COMAR 26.11.03.02 and .03 except that the application for a revision need include only information listed that is related to the proposed change to the source and revision to the permit. This information shall be sufficient to evaluate the proposed change and to determine whether it will comply with all applicable requirements of the Clean Air Act.
- c. The Permittee may not change any provision of a compliance plan or schedule in a Part 70 permit as an administrative permit amendment or as a minor permit modification unless the change has been approved by the Department in writing.
- d. A permit revision is not required for a change that is provided for in this permit relating to approved economic incentives, marketable permits, emissions trading, and other similar programs.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

12. SIGNIFICANT PART 70 OPERATING PERMIT MODIFICATIONS

[COMAR 26.11.03.17]

The Permittee may apply to the Department to make a significant modification to its Part 70 Permit as provided in COMAR 26.11.03.17 and in accordance with the following conditions:

- a. A significant modification is a revision to the federally enforceable provisions in the permit that does not qualify as an administrative permit amendment under COMAR 26.11.03.15 or a minor permit modification as defined under COMAR 26.11.03.16.
- b. This permit does not preclude the Permittee from making changes, consistent with the provisions of COMAR 26.11.03, that would make the permit or particular terms and conditions of the permit irrelevant, such as by shutting down or reducing the level of operation of a source or of an emissions unit within the source. Air pollution control equipment shall not be shut down or its level of operation reduced if doing so would violate any term of this permit.
- c. Significant permit modifications are subject to all requirements of COMAR 26.11.03 as they apply to permit issuance and renewal, including the requirements for applications, public participation, and review by affected states and EPA, except:
 - (1) An application need include only information pertaining to the proposed change to the source and modification of this permit, including a description of the change and modification, and any new applicable requirements of the Clean Air Act that will apply if the change occurs;
 - (2) Public participation, and review by affected states and EPA, is limited to only the application and those federally enforceable terms and conditions of the Part 70 permit that are affected by the significant permit modification.
- d. As provided in COMAR 26.11.03.15B(5), an administrative permit amendment may be used to make a change that would otherwise require a significant permit modification if procedures for enhanced preconstruction review of the change are followed that satisfy the requirements of 40 CFR 70.7(d)(1)(v).
- e. Before making a change that qualifies as a significant permit modification, the Permittee shall obtain all permits-to-construct and approvals required by COMAR 26.11.02.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- f. The Permittee shall not make a significant permit modification that results in a violation of any applicable requirement of the Clean Air Act.
- g. The permit shield in COMAR 26.11.03.23 applies to a final significant permit modification that has been issued by the Department, to the extent applicable under COMAR 26.11.03.23.

13. MINOR PERMIT MODIFICATIONS

[COMAR 26.11.03.16]

The Permittee may apply to the Department to make a minor modification to the federally enforceable provisions of this Part 70 permit as provided in COMAR 26.11.03.16 and in accordance with the following conditions:

- a. A minor permit modification is a Part 70 permit revision that:
 - (1) Does not result in a violation of any applicable requirement of the Clean Air Act;
 - (2) Does not significantly revise existing federally enforceable monitoring, including test methods, reporting, record keeping, or compliance certification requirements except by:
 - (a) Adding new requirements,
 - (b) Eliminating the requirements if they are rendered meaningless because the emissions to which the requirements apply will no longer occur, or
 - (c) Changing from one approved test method for a pollutant and source category to another;
 - (3) Does not require or modify a:
 - (a) Case-by-case determination of a federally enforceable emissions standard,
 - (b) Source specific determination for temporary sources of ambient impacts, or
 - (c) Visibility or increment analysis;
 - (4) Does not seek to establish or modify a federally enforceable permit term or condition for which there is no corresponding underlying applicable requirement of the Clean Air Act, but that the Permittee has

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

assumed to avoid an applicable requirement to which the source would otherwise be subject, including:

- (a) A federally enforceable emissions standard applied to the source pursuant to COMAR 26.11.02.03 to avoid classification as a Title I modification; and
- (b) An alternative emissions standard applied to an emissions unit pursuant to regulations promulgated under Section 112(i)(5) of the Clean Air Act

(5) Is not a Title I modification; and

(6) Is not required under COMAR 26.11.03.17 to be processed as a significant modification to this Part 70 permit.

b. Application for a Minor Permit Modification

The Permittee shall submit to the Department an application for a minor permit modification that satisfies the requirements of COMAR 26.11.03.03 which includes the following:

- (1) A description of the proposed change, the emissions resulting from the change, and any new applicable requirements that will apply if the change is made;
- (2) The proposed minor permit modification;
- (3) Certification by a responsible official, in accordance with COMAR 26.11.02.02F, that:
 - (a) The proposed change meets the criteria for a minor permit modification, and
 - (b) The Permittee has obtained or applied for all required permits-to-construct required by COMAR 26.11.03.16 with respect to the proposed change;
- (4) Completed forms for the Department to use to notify the EPA and affected states, as required by COMAR 26.11.03.07-.12.

c. Permittee's Ability to Make Change

- (1) For changes proposed as minor permit modifications to this permit that will require the applicant to obtain a permit to construct, the permit to construct must be issued prior to the new change.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- (2) During the period of time after the Permittee applies for a minor modification but before the Department acts in accordance with COMAR 26.11.03.16F(2):
 - (a) The Permittee shall comply with applicable requirements of the Clean Air Act related to the change and the permit terms and conditions described in the application for the minor modification.
 - (b) The Permittee is not required to comply with the terms and conditions in the permit it seeks to modify. If the Permittee fails to comply with the terms and conditions in the application during this time, the terms and conditions of both this permit and the application for modification may be enforced against it.
- d. The Permittee is subject to enforcement action if it is determined at any time that a change made under COMAR 26.11.03.16 is not within the scope of this regulation.
- e. Minor permit modification procedures may be used for Part 70 permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, but only to the extent that the minor permit modification procedures are explicitly provided for in regulations approved by the EPA as part of the Maryland SIP or in other applicable requirements of the Clean Air Act.

14. ADMINISTRATIVE PART 70 OPERATING PERMIT AMENDMENTS

[COMAR 26.11.03.15]

The Permittee may apply to the department to make an administrative permit amendment as provided in COMAR 26.11.03.15 and in accordance with the following conditions:

- a. An application for an administrative permit amendment shall:
 - (1) Be in writing;
 - (2) Include a statement certified by a responsible official that the proposed amendment meets the criteria in COMAR 26.11.03.15 for an administrative permit amendment, and
 - (3) Identify those provisions of this part 70 permit for which the amendment is requested, including the basis for the request.
- b. An administrative permit amendment:

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- (1) Is a correction of a typographical error;
 - (2) Identifies a change in the name, address, or phone number of a person identified in this permit, or a similar administrative change involving the Permittee or other matters which are not directly related to the control of air pollution;
 - (3) Requires more frequent monitoring or reporting by the Permittee;
 - (4) Allows for a change in ownership or operational control of a source for which the Department determines that no other revision to the permit is necessary and is documented as per COMAR 26.11.03.15B(4);
 - (5) Incorporates into this permit the requirements from preconstruction review permits or approvals issued by the Department in accordance with COMAR 26.11.03.15B(5), but only if it satisfies 40 CFR 70.7(d)(1)(v);
 - (6) Incorporates any other type of change, as approved by the EPA, which is similar to those in COMAR 26.11.03.15B(1)—(4);
 - (7) Notwithstanding COMAR 26.11.03.15B(1)—(6), all modifications to acid rain control provisions included in this Part 70 permit are governed by applicable requirements promulgated under Title IV of the Clean Air Act; or
 - (8) Incorporates any change to a term or condition specified as State-only enforceable, if the Permittee has obtained all necessary permits-to-construct and approvals that apply to the change.
- c. The Permittee may make the change addressed in the application for an administrative amendment upon receipt by the Department of the application, if all permits-to-construct or approvals otherwise required by COMAR 26.11.02 prior to making the change have first been obtained from the Department.
- d. The permit shield in COMAR 26.11.03.23 applies to administrative permit amendments made under Section B(5) of COMAR 26.11.03.15 , but only after the Department takes final action to revise the permit.
- e. The Permittee is subject to enforcement action if it is determined at any time that a change made under COMAR 26.11.03.15 is not within the scope of this regulation.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

15. OFF-PERMIT CHANGES TO THIS SOURCE

[COMAR 26.11.03.19]

The Permittee may make off-permit changes to this facility as provided in COMAR 26.11.03.19 and in accordance with the following conditions:

- a. The Permittee may make a change to this permitted facility that is not addressed or prohibited by the federally enforceable conditions of this Part 70 permit without obtaining a Part 70 permit revision if:
 - (1) The Permittee has obtained all permits and approvals required by COMAR 26.11.02 and .03;
 - (2) The change is not subject to any requirements under Title IV of the Clean Air Act;
 - (3) The change is not a Title I modification; and
 - (4) The change does not violate an applicable requirement of the Clean Air Act or a federally enforceable term or condition of the permit.
- b. For a change that qualifies under COMAR 26.11.03.19, the Permittee shall provide contemporaneous written notice to the Department and the EPA, except for a change to an emissions unit or activity that is exempt from the Part 70 permit application, as provided in COMAR 26.11.03.04. This written notice shall describe the change, including the date it was made, any change in emissions, including the pollutants emitted, and any new applicable requirements of the Clean Air Act that apply as a result of the change.
- c. Upon satisfying the requirements of COMAR 26.11.03.19, the Permittee may make the proposed change.
- d. The Permittee shall keep a record describing:
 - (1) Changes made at the facility that result in emissions of a regulated air pollutant subject to an applicable requirement of the Clean Air Act , but not otherwise regulated under this permit; and
 - (2) The emissions resulting from those changes.
- e. Changes that qualify under COMAR 26.11.03.19 are not subject to the requirements for Part 70 revisions.
- f. The Permittee shall include each off-permit change under COMAR 26.11.03.19 in the application for renewal of the part 70 permit.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- g. The permit shield in COMAR 26.11.03.23 does not apply to off-permit changes made under COMAR 26.11.03.19.
- h. The Permittee is subject to enforcement action if it is determined that an off-permit change made under COMAR 26.11.03.19 is not within the scope of this regulation.

16. ON-PERMIT CHANGES TO SOURCES

[COMAR 26.11.03.18]

The Permittee may make on-permit changes that are allowed under Section 502(b)(10) of the Clean Air Act as provided in COMAR 26.11.03.18 and in accordance with the following conditions:

- a. The Permittee may make a change to this facility without obtaining a revision to this Part 70 permit if:
 - (1) The change is not a Title I modification;
 - (2) The change does not result in emissions in excess of those expressly allowed under the federally enforceable provisions of the Part 70 permit for the permitted facility or for an emissions unit within the facility, whether expressed as a rate of emissions or in terms of total emissions;
 - (3) The Permittee has obtained all permits and approvals required by COMAR 26.11.02 and .03;
 - (4) The change does not violate an applicable requirement of the Clean Air Act;
 - (5) The change does not violate a federally enforceable permit term or condition related to monitoring, including test methods, record keeping, reporting, or compliance certification requirements;
 - (6) The change does not violate a federally enforceable permit term or condition limiting hours of operation, work practices, fuel usage, raw material usage, or production levels if the term or condition has been established to limit emissions allowable under this permit;
 - (7) If applicable, the change does not modify a federally enforceable provision of a compliance plan or schedule in this Part 70 permit unless the Department has approved the change in writing; and
 - (8) This permit does not expressly prohibit the change under COMAR 26.11.03.18.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- b. The Permittee shall notify the Department and the EPA in writing of a proposed on-permit change under COMAR 26.11.03.18 not later than 7 days before the change is made. The written information shall include the following information:
 - (1) A description of the proposed change;
 - (2) The date on which the change is proposed to be made;
 - (3) Any change in emissions resulting from the change, including the pollutants emitted;
 - (4) Any new applicable requirement of the Clean Air Act; and
 - (5) Any permit term or condition that would no longer apply.
- c. The responsible official of this facility shall certify in accordance with COMAR 26.11.02.02F that the proposed change meets the criteria for the use of on-permit changes under COMAR 26.11.03.18.
- d. The Permittee shall attach a copy of each notice required by condition b. above to this Part 70 permit.
- e. On-permit changes that qualify under COMAR 26.11.03.18 are not subject to the requirements for part 70 permit revisions.
- f. Upon satisfying the requirements under COMAR 26.11.03.18, the Permittee may make the proposed change.
- g. The permit shield in COMAR 26.11.03.23 does not apply to on-permit changes under COMAR 26.11.03.18.
- h. The Permittee is subject to enforcement action if it is determined that an on-permit change made under COMAR 26.11.03.18 is not within the scope of the regulation or violates any requirement of the State air pollution control law.

17. FEE PAYMENT

[COMAR 26.11.02.16A(2) & (5)(b)]

- a. The fee for this Part 70 permit is as prescribed in Regulation .19 of COMAR 26.11.02.
- b. The fee is due on and shall be paid on or before each 12-month anniversary date of the permit.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- c. Failure to pay the annual permit fee constitutes cause for revocation of the permit by the Department.

18. REQUIREMENTS FOR PERMITS-TO-CONSTRUCT AND APPROVALS

[COMAR 26.11.02.09.]

The Permittee may not construct or modify or cause to be constructed or modified any of the following sources without first obtaining, and having in current effect, the specified permits-to-construct and approvals:

- a. New Source Review source, as defined in COMAR 26.11.01.01, approval required, except for generating stations constructed by electric companies;
- b. Prevention of Significant Deterioration source, as defined in COMAR 26.11.01.01, approval required, except for generating stations constructed by electric companies;
- c. New Source Performance Standard source, as defined in COMAR 26.11.01.01, permit to construct required, except for generating stations constructed by electric companies;
- d. National Emission Standards for Hazardous Air Pollutants source, as defined in COMAR 26.11.01.01, permit to construct required, except for generating stations constructed by electric companies;
- e. A stationary source of lead that discharges one ton per year or more of lead or lead compounds measured as elemental lead, permit to construct required, except for generating stations constructed by electric companies;
- f. All stationary sources of air pollution, including installations and air pollution control equipment, except as listed in COMAR 26.11.02.10, permit to construct required;
- g. In the event of a conflict between the applicability of (a.— e.) above and an exemption listed in COMAR 26.11.02.10, the provision that requires a permit applies.
- h. Approval of a PSD or NSR source by the Department does not relieve the Permittee obtaining an approval from also obtaining all permits-to-construct required b y (c.— g.) above.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

19. CONSOLIDATION OF PROCEDURES FOR PUBLIC PARTICIPATION

[COMAR 26.11.02.11C] and [COMAR 26.11.03.01K]

The Permittee may request the Department to authorize special procedures for the Permittee to apply simultaneously, to the extent possible, for a permit to construct and a revision to this permit.

These procedures may provide for combined public notices, informational meetings, and public hearings for both permits but shall not adversely affect the rights of a person, including EPA and affected states, to obtain information about the application for a permit, to comment on an application, or to challenge a permit that is issued.

These procedures shall not alter any existing permit procedures or time frames.

20. PROPERTY RIGHTS

[COMAR 26.11.03.06E(4)]

This Part 70 permit does not convey any property rights of any sort, or any exclusive privileges.

21. SEVERABILITY

[COMAR 26.11.03.06A(5)]

If any portion of this Part 70 permit is challenged, or any term or condition deemed unenforceable, the remainder of the requirements of the permit continues to be valid.

22. INSPECTION AND ENTRY

[COMAR 26.11.03.06G(3)]

The Permittee shall allow employees and authorized representatives of the Department, the EPA, and local environmental health agencies, upon presentation of credentials or other documents as may be required by law, to:

- a. Enter at a reasonable time without delay and without prior notification the Permittee's property where a Part 70 source is located, emissions-related activity is conducted, or records required by this permit are kept;
- b. Have access to and make copies of records required by the permit;

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- c. Inspect all emissions units within the facility subject to the permit and all related monitoring systems, air pollution control equipment, and practices or operations regulated or required by the permit; and
- d. Sample or monitor any substances or parameters at or related to the emissions units at the facility for the purpose of determining compliance with the permit.

23. DUTY TO PROVIDE INFORMATION

[COMAR 26.11.03.06E(5)]

The Permittee shall furnish to the Department, within a reasonable time specified by the Department, information requested in writing by the Department in order to determine whether the Permittee is in compliance with the federally enforceable conditions of this Part 70 permit, or whether cause exists for revising or revoking the permit. Upon request, the Permittee shall also furnish to the Department records required to be kept under the permit.

For information claimed by the Permittee to be confidential and therefore potentially not discloseable to the public, the Department may require the Permittee to provide a copy of the records directly to the EPA along with a claim of confidentiality.

The Permittee shall also furnish to the Department, within a reasonable time specified by the Department, information or records requested in writing by the Department in order to determine if the Permittee is in compliance with the State-only enforceable conditions of this permit.

24. COMPLIANCE REQUIREMENTS

[COMAR 26.11.03.06E(1)] and [COMAR 26.11.03.06A(11)] and [COMAR 26.11.02.05]

The Permittee shall comply with the conditions of this Part 70 permit. Noncompliance with the permit constitutes a violation of the Clean Air Act, and/or the Environment Article Title 2 of the Annotated Code of Maryland and may subject the Permittee to:

- a. Enforcement action,
- b. Permit revocation or revision,
- c. Denial of the renewal of a Part 70 permit, or
- d. Any combination of these actions.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

The conditions in this Part 70 permit are enforceable by EPA and citizens under the Clean Air Act except for the State-only enforceable conditions.

Under Environment Article Section 2-609, Annotated Code of Maryland, the Department may seek immediate injunctive relief against a person who violates this permit in such a manner as to cause a threat to human health or the environment.

25. CREDIBLE EVIDENCE

Nothing in this permit shall be interpreted to preclude the use of credible evidence to demonstrate noncompliance with any term of this permit.

26. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE

[COMAR 26.11.03.06E(2)]

The need to halt or reduce activity in order to comply with the conditions of this permit may not be used as a defense in an enforcement action.

27. CIRCUMVENTION

[COMAR 26.11.01.06]

The Permittee may not install or use any article, machine, equipment or other contrivance, the use of which, without resulting in a reduction in the total weight of emissions, conceals or dilutes emissions which would otherwise constitute a violation of any applicable air pollution control regulation.

28. PERMIT SHIELD

[COMAR 26.11.03.23]

A permit shield as described in COMAR 26.11.03.23 shall apply only to terms and conditions in this Part 70 permit that have been specifically identified as covered by the permit shield. Neither this permit nor COMAR 26.11.03.23 alters the following:

- a. The emergency order provisions in Section 303 of the Clean Air Act, including the authority of EPA under that section;

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- b. The liability of the Permittee for a violation of an applicable requirement of the Clean Air Act before or when this permit is issued or for a violation that continues after issuance;
- c. The requirements of the Acid Rain Program, consistent with Section 408(a) of the Clean Air Act;
- d. The ability of the Department or EPA to obtain information from a source pursuant to Maryland law and Section 114 of the Clean Air Act; or
- e. The authority of the Department to enforce an applicable requirement of the State air pollution control law that is not an applicable requirement of the Clean Air Act.

29. ALTERNATE OPERATING SCENARIOS

[COMAR 26.11.03.06A(9)]

For all alternate operating scenarios approved by the Department and contained within this permit, the Permittee, while changing from one approved scenario to another, shall contemporaneously record in a log maintained at the facility each scenario under which the emissions unit is operating and the date and time the scenario started and ended.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

SECTION III PLANT WIDE CONDITIONS

1. PARTICULATE MATTER FROM CONSTRUCTION AND DEMOLITION

[COMAR 26.11.06.03D]

The Permittee shall not cause or permit any building, its appurtenances, or a road to be used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

2. OPEN BURNING

[COMAR 26.11.07]

Except as provided in COMAR 26.11.07.04, the Permittee shall not cause or permit an open fire from June 1 through August 31 of any calendar year. Prior to any open burning, the Permittee shall request and receive approval from the Department.

3. AIR POLLUTION EPISODE

[COMAR 26.11.05.04]

When requested by the Department, the Permittee shall prepare in writing, standby emissions reduction plans, consistent with good industrial practice and safe operating procedures, for reducing emissions creating air pollution during periods of Alert, Warning, and Emergency of an air pollution episode.

4. REPORT OF EXCESS EMISSIONS AND DEVIATIONS

[COMAR 26.11.01.07] and [COMAR 26.11.03.06C(7)]

The Permittee shall comply with the following conditions for occurrences of excess emissions and deviations from requirements of this permit, including those in Section VI – State-only Enforceable Conditions:

- a. Report any deviation from permit requirements that could endanger human health or the environment, by orally notifying the Department immediately upon discovery of the deviation;
- b. Promptly report all occurrences of excess emissions that are expected to last for one hour or longer by orally notifying the Department of the onset and termination of the occurrence;

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- c. When requested by the Department the Permittee shall report all deviations from permit conditions, including those attributed to malfunctions as defined in COMAR 26.11.01.07A, within 5 days of the request by submitting a written description of the deviation to the Department. The written report shall include the cause, dates and times of the onset and termination of the deviation, and an account of all actions planned or taken to reduce, eliminate, and prevent recurrence of the deviation;
- d. The Permittee shall submit to the Department semi-annual monitoring reports that confirm that all required monitoring was performed, and that provide accounts of all deviations from permit requirements that occurred during the reporting periods. Reporting periods shall be January 1 through June 30 and July 1 through December 31, and reports shall be submitted within 30 days of the end of each reporting period. Each account of deviation shall include a description of the deviation, the dates and times of onset and termination, identification of the person who observed or discovered the deviation, causes and corrective actions taken, and actions taken to prevent recurrence. If no deviations from permit conditions occurred during a reporting period, the Permittee shall submit a written report that so states.
- e. When requested by the Department, the Permittee shall submit a written report to the Department within 10 days of receiving the request concerning an occurrence of excess emissions. The report shall contain the information required in COMAR 26.11.01.07D(2).

5. ACCIDENTAL RELEASE PROVISIONS

[COMAR 26.11.03.03B(23)] and [40 CFR 68]

Should the Permittee become subject to 40 CFR 68 during the term of this permit, the Permittee shall submit risk management plans by the date specified in 40 CFR 68.150 and shall certify compliance with the requirements of 40 CFR 68 as part of the annual compliance certification as required by 40 CFR 70.

The Permittee shall initiate a permit revision or reopening according to the procedures of 40 CFR 70.7 to incorporate appropriate permit conditions into the Permittee's Part 70 permit.

6. GENERAL TESTING REQUIREMENTS

[COMAR 26.11.01.04]

The Department may require the Permittee to conduct, or have conducted, testing to determine compliance with this Part 70 permit. The Department, at its

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

option, may witness or conduct these tests. This testing shall be done at a reasonable time, and all information gathered during a testing operation shall be provided to the Department.

7. EMISSIONS TEST METHODS

[COMAR 26.11.01.04]

Compliance with the emissions standards and limitations in this Part 70 permit shall be determined by the test methods designated and described below or other test methods submitted to and approved by the Department.

Reference documents of the test methods approved by the Department include the following:

- a. 40 CFR 60, Appendix A
- b. 40 CFR 51, Appendix M
- c. The Department's Technical Memorandum 91-01 "Test Methods and Equipment Specifications for Stationary Sources", (January 1991), as amended through Supplement 3, (October 1, 1997)

8. EMISSIONS CERTIFICATION REPORT

**[COMAR 26.11.01.05-1] and [COMAR 26.11.02.19C] and
[COMAR 26.11.02.19D]**

The Permittee shall certify actual annual emissions of regulated pollutants from the facility on a calendar year basis.

- a. The certification shall be on forms obtained from the Department and submitted to the Department not later than April 1 of the year following the year for which the certification is required;
- b. The individual making the certification shall certify that the information is accurate to the individual's best knowledge. The individual shall be:
 - (1) Familiar with each source for which the certifications forms are submitted, and
 - (2) Responsible for the accuracy of the emissions information;
- c. The Permittee shall maintain records necessary to support the emissions certification including the following information if applicable:

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- (1) The total amount of actual emissions of each regulated pollutant and the total of all regulated pollutants;
- (2) An explanation of the methods used to quantify the emissions and the operating schedules and production data that were used to determine emissions, including significant assumptions made;
- (3) Amounts, types and analyses of all fuels used;
- (4) Emissions data from continuous emissions monitors that are required by this permit, including monitor calibration and malfunction information;
- (5) Identification, description, and use records of all air pollution control equipment and compliance monitoring equipment including:
 - (a) Significant maintenance performed,
 - (b) Malfunctions and downtime, and
 - (c) Episodes of reduced efficiency of all equipment;
- (6) Limitations on source operation or any work practice standards that significantly affect emissions; and
- (7) Other relevant information as required by the Department.

9. COMPLIANCE CERTIFICATION REPORT

[COMAR 26.11.03.06G(6) and (7)]

The Permittee shall submit to the Department and EPA Region III a report certifying compliance with each term of this Part 70 permit including each applicable standard, emissions limitation, and work practice for the previous calendar year by April 1 of each year.

- a. The compliance certification shall include:
 - (1) The identification of each term or condition of this permit which is the basis of the certification;
 - (2) The compliance status;
 - (3) Whether the compliance was continuous or intermittent;
 - (4) The methods used for determining the compliance status of each source, currently and over the reporting period; and

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

(5) Any other information required to be reported to the Department that is necessary to determine the compliance status of the Permittee with this permit.

b. The Permittee shall submit the compliance certification reports to the Department and EPA simultaneously.

10. CERTIFICATION BY RESPONSIBLE OFFICIAL

[COMAR 26.11.02.02F]

All application forms, reports, and compliance certifications submitted pursuant to this permit shall be certified by a responsible official as to truth, accuracy, and completeness. The Permittee shall expeditiously notify the Department of an appointment of a new responsible official.

The certification shall be in the following form:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

11. SAMPLING AND EMISSIONS TESTING RECORD KEEPING

[COMAR 26.11.03.06C(5)]

The Permittee shall gather and retain the following information when sampling and testing for compliance demonstrations:

- a. The location as specified in this permit, and the date and time that samples and measurements are taken;
- b. All pertinent operating conditions existing at the time that samples and measurements are taken;
- c. The date that each analysis of a sample or emissions test is performed and the name of the person taking the sample or performing the emissions test;
- d. The identity of the Permittee, individual, or other entity that performed the analysis;

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- e. The analytical techniques and methods used; and
- f. The results of each analysis.

12. GENERAL RECORDKEEPING

[COMAR 26.11.03.06C(6)]

The Permittee shall retain records of all monitoring data and information that support the compliance certification for a period of five (5) years from the date that the monitoring, sample measurement, application, report or emissions test was completed or submitted to the Department.

These records and support information shall include:

- a. All calibration and maintenance records;
- b. All original data collected from continuous monitoring instrumentation;
- c. Records which support the annual emissions certification; and
- d. Copies of all reports required by this permit.

13. GENERAL CONFORMITY

[COMAR 26.11.26.09]

The Permittee shall comply with the general conformity requirements of 40 CFR 93, Subpart B and COMAR 26.11.26.09.

14. ASBESTOS PROVISIONS

[40 CFR 61, Subpart M]

The Permittee shall comply with 40 CFR 61, Subpart M when conducting any renovation or demolition activities at the facility.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

15. OZONE DEPLETING REGULATIONS

[40 CFR 82, Subpart F]

The Permittee shall comply with the standards for recycling and emissions reduction pursuant to 40 CFR 82, Subpart F, except as provided for MVACs in subpart B:

- a. Persons opening appliances for maintenance, service, repair, or disposal shall comply with the prohibitions and required practices pursuant to 40 CFR 82.154 and 82.156.
- b. Equipment used during the maintenance, service, repair or disposal of appliances shall comply with the standards for recycling and recovery equipment pursuant to 40 CFR 82.158.
- c. Persons performing maintenance, service, repairs or disposal of appliances shall be certified by an approved technician certification program pursuant to 40 CFR 82.161.
- d. Persons performing maintenance, service, repairs or disposal of appliances shall certify with the Administrator pursuant to 40 CFR 82.162.
- e. Persons disposing of small appliances, MVACS, and MVAC-like appliances as defined in 40 CFR 82.152, shall comply with record keeping requirements pursuant to 40 CFR 82.166.
- f. Persons owning commercial or industrial process refrigeration equipment shall comply with the leak repair requirements pursuant to 40 CFR 82.156.
- g. Owners/operators of appliances normally containing 50 or more pounds of refrigerant shall keep records of refrigerant purchased and added to such appliances pursuant to 40 CFR 82.166.

16. ACID RAIN PERMIT

Not applicable

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}**3200 HAWKINS POINT ROAD****BALTIMORE, MARYLAND 21226****PART 70 OPERATING PERMIT NO. 24-510-2975****SECTION IV PLANT SPECIFIC CONDITIONS**

This section provides tables that include the emissions standards, emissions limitations, and work practices applicable to each emissions unit located at this facility. The Permittee shall comply with all applicable emissions standards, emissions limitations and work practices included herein.

The tables also include testing, monitoring, record keeping and reporting requirements specific to each emissions unit. In addition to the requirements included here in **Section IV**, the Permittee is also subject to the general testing, monitoring, record keeping and reporting requirements included in **Section III – Plant Wide Conditions** of this permit.

Unless otherwise provided in the specific requirements for an emissions unit, the Permittee shall maintain at the facility for at least five (5) years, and shall make available to the Department upon request, all records that the Permittee is required under this section to establish. [Authority: COMAR 26.11.03.06C(5)(g)]

Table IV – 1	
1.0	<p><u>Emissions Unit Number(s)</u></p> <p>EU-01: Unit 1 Consumat Medical Waste Incinerator equipped with a heat recovery boiler and controlled by a SNCR and a dual train dry scrubber/ fabric filter bag house system.</p> <p>EU-02: Unit 2 Consumat Medical Waste Incinerator equipped with a heat recovery boiler and controlled by a SNCR and a dual train dry scrubber/ fabric filter bag house system.</p>
1.1	<p><u>Applicable Standards/Limits:</u></p> <p>A. Emission Standards. Note: Regulation COMAR 26.11.08.08-2, is now federally enforceable per EPA's approval of Maryland's §111(d)/129 Plan revisions, which became effective on <u>May 30, 2017</u>.</p> <p>(1) COMAR 26.11.08.08-2A, The emission standards and requirements of §B(1)—(7) of Regulation COMAR 26.11.08.08-2 apply to a person who owns or operates a large HMIWI subject to 40 CFR Part 60, Subpart Ce, as amended on <u>October 6, 2009</u>.</p> <p>(2) COMAR 26.11.08.08-2B(1) “A person who owns or operates a ... large HMIWI for which construction was commenced on or before June 20, 1996 or for which modification commenced on or before March 16, 1998 shall comply with the following emission limits. (<i>See Table of Applicable Emission Limits below</i>).</p>

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}**3200 HAWKINS POINT ROAD****BALTIMORE, MARYLAND 21226****PART 70 OPERATING PERMIT NO. 24-510-2975****Table IV – 1**

	Pollutant	Units (7% oxygen, dry basis)	Emission Limits for Large HMIWIs
			COMAR 26.11.08.08-2 Subpart Ce, as amended, October 6, 2009
A1	Particulate Matter (PM)	milligrams per dry standard cubic meter (or per dry standard cubic foot)	25 (0.011)
A2	Opacity (Areas III & IV no visible emissions)	percent (6 minute block average)	10
A3	Carbon Monoxide (CO)	ppm by volume	11 (24-hr block average)
A4	Dioxins/Furans	nanograms per dry standard cubic meter total dioxins/furans (gr per billion dry standard cubic foot) or nanograms per dry standard cubic meter TEQ (gr per billion dry standard cubic foot)	9.3 (4.1) or 0.054 (0.024)
A5	Hydrogen Chloride (HCl).	ppm by volume	6.6 (24-hr block average)
A6	Sulfur Dioxide (SO ₂)	ppm by volume	9.0
A7	Nitrogen Oxides (NO _x)	ppm by volume	140 (24-hr block average)
A8	Lead (Pb)	milligrams per dry standard cubic meter (gr per thousand dry standard cubic foot)	0.036 (0.016)
A9	Cadmium (Cd)	milligrams per dry standard cubic meter (gr per thousand dry standard cubic foot)	0.0092 (0.0040)
A10	Mercury (Hg)	milligrams per dry standard cubic meter (gr per thousand dry standard cubic foot)	0.018 (0.0079)

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

1. The emissions limits apply at all times [Ref: 40 CFR §60.56c(a)]
2. Except where otherwise noted below, compliance with the above standards shall be determined by the average of three (3) stack test runs with a 1-hour minimum sample time per run, using test methods as specified in 40 CFR 60.56c(b)
3. Compliance with the dioxins/furans standards shall be determined by the average of three (3) stack test runs with a 4-hour minimum sample time per run;
4. Compliance with the CO 11 ppmv standard shall be determined by CEMS 24-hour block average [Authority: COMAR 26.11.08.08-2, which references 40 CFR §60.56c; §60.56c(c)(4)(i)]
5. Compliance with the HCl 6.6 ppmv standard shall be determined by CEMS 24-hour block average [Authority: COMAR 26.11.08.08-2, which references 40 CFR §60.56c; §60.56c(c)(5)(ii)].
6. Compliance with the NO_x 140 ppmv standard shall be determined by CEMS 24-hour block average [Authority: COMAR 26.11.08.08-2, which references 40 CFR §60.56c; §60.56c(c)(5)(ii)]

Additional Emission Limits

A2 Opacity

- (3) **COMAR 26.11.08.04B** – Visible Emissions. A person may not cause or permit the discharge of emissions from any incinerator or hazardous waste incinerator, other than water in an uncombined form, which is visible to human observers.
- (4) **COMAR 26. 11.08.04C** Exceptions. The requirements of [COMAR 26.11.08.04B] do not apply to emissions during start-up, or adjustments or occasional cleaning of control equipment if: (1) The visible emissions are not greater than 40 percent opacity; and (2) The visible emissions do not occur for more than 6 consecutive minutes in any sixty minute period.

A2-1 Fugitive Emissions -

- (5) **40 CFR §60.52c(c)** Fugitive emissions. Beginning June 15, 2012, no owner or operator of an affected facility shall cause to be discharged into the atmosphere visible emissions of combustion ash from the ash conveying system (including conveyor transfer points) in excess of 5 percent of the observation period (i.e., 9 minutes per 3-hour period), as determined by EPA Reference Method 22 of appendix A-1 of 40 CFR Part 60, except as provided in paragraphs (d) and (e) of this section [Authority: COMAR 26.11.08.08-2B(4)(a)].

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

40 CFR §60.52c(d). The emission limit specified in paragraph (c) of this section does not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however the emission limit does cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems.

40 CFR §60.52c(e). The provisions specified in paragraph (c) above do not apply during maintenance and repair of ash conveying systems. Maintenance or repair shall not exceed 10 operating days per calendar quarter unless the owner or operator obtains written approval from the State agency establishing a date whereby all necessary maintenance and repairs of ash conveying systems shall be completed.

A7 Nitrogen Oxides (NO_x)

- (6) **COMAR 26.11.09.08H(3)** NO_x RACT Requirement. NO_x emissions from hospital, medical, and infectious waste incinerators as defined in COMAR 26.11.08.01B(18) may not exceed the NO_x emission standards in COMAR 26.11.08.08-1A(2) (250 ppm 24-hour average) as applicable.

Note: Emission limit cited under Condition (6) above is superseded by the more stringent NO_x limit of 140 ppm (24-hour block average) requirement cited in COMAR 26.11.08.08-2B. {See Condition 1.1 A. (2), above}

B. Waste Management Plan

A person who owns or operates an HMIWI subject to this regulation shall prepare a Waste Management Plan that identifies the feasibility and the approach to solid waste segregation or material substitution to reduce the amount of toxics emissions. The Waste Management Plan shall meet the requirements of 40 CFR §60.55c, subpart Ec.” [Authority: COMAR 26.11.08.08-2B(3)]

C. Operator Training

- (1) “For approval, a State [111(d)/129] plan shall include the requirements for operator training and qualification at least as protective as those requirements listed in §60.53c of subpart Ec of this part. The State plan shall require compliance with these requirements according to the schedule specified in §60.39e(e).”
- (2) “No owner or operator of an affected facility shall allow the affected facility to operate at any time unless a fully trained and qualified HMIWI operator is accessible, either at the facility or available within 1 hour. The trained and qualified HMIWI operator may operate the HMIWI directly or be the direct supervisor of one or more HMIWI operators.” [Authority: 40 CFR §60.53c(a)]

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

	<p>(3) “Operator training and qualification shall be obtained <u>through a State-approved program</u> or by completing the requirements included in paragraphs (c) through (g) of this section....” [Authority: 40 CFR §60.53c(b)] .</p> <p>(4) COMAR 26.11.08.09 – <u>State Incinerator Operator Training Requirements</u>.</p> <p>“B. Certification and Operation. A person may not operate or allow an incinerator to be operated unless the owner certifies to the Department on a form provided by the Department that the incinerator operator:</p> <p>“(1) Has completed an initial training course approved by the Department, which meets the requirements of §C or D of this regulation;</p> <p>“(2) Annually, after initial certification, completes a review course approved by the Department; and</p> <p>“(3) Is present at all times whenever the incinerator is in operation.”</p> <p>“C. Training Course for Operator of Special Medical Waste or Industrial Waste Incinerators.</p> <p>“(1) For any incinerator operator who operates a special medical waste incinerator or an industrial waste incinerator, the training course shall be the "Hospital Incinerator Operator Training Course" Volumes I—III (EPA-450/3-89-003, EPA-450/3-89-004, and EPA-450/3-89-010, respectively), Control Technology Center, March 1989, which is incorporated by reference, and "Operation and Maintenance of Hospital Medical Waste Incinerators" (EPA-450/3-89-002), Control Technology Center, March 1989, which is incorporated by reference.</p> <p>“(2) For the operator of any special medical waste incinerator or an industrial waste incinerator, completing a training course means:</p> <p>“(a) Completing an initial training course approved by the Department of at least 3 days (24 hours) duration; and</p> <p>“(b) Passing a written test approved by the Department.</p> <p>“(3) The certified operator shall, after initial training, complete and pass an annual review course approved by the Department of at least 1-day (8 hours) duration.</p> <p>“(4) For an HMIWI subject to the requirements of this chapter, a person is qualified to operate an HMIWI if the person passes the training course required in §C(2) and (3) of this regulation and complies with the</p>
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CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

	<p>requirements in 40 CFR §60.53(c)(d).</p> <p>“(5) An owner or operator of an HMIWI shall maintain documentation of training (operator training manual) on site and update the documentation annually at the time of the annual review course. The documentation shall be as specified in 40 CFR §60.53c(h).”</p>
D.	<p>Equipment Inspection Requirements [Authority: COMAR 26.11.08.08-2D and 40 CFR §60.36e]</p> <p>(1) Each HMIWI shall undergo annual inspections that at a minimum include the following [Authority: COMAR 26.11.08.08-2D(1)]:</p> <ul style="list-style-type: none"> (a) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation and clean pilot flame sensor, as necessary; (b) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary; (c) Inspect hinges and door latches, and lubricate as necessary; (d) Inspect dampers, fans, and blowers for proper operation; (e) Inspect HMIWI door and door gaskets for proper sealing; (f) Inspect motors for proper operation; (g) Inspect primary chamber refractory lining; clean and repair or replace lining as necessary; (h) Inspect incinerator shell for corrosion or hot spots, or both; (i) Inspect secondary/tertiary chamber and stack and clean as necessary; (j) Inspect mechanical loader, including limit switches, for proper operation, if applicable; (k) Visually inspect waste bed (grates), and repair or seal, as appropriate; (l) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments; (m) Inspect air pollution control device or devices for proper operation, if applicable; (n) Inspect waste heat boiler systems to ensure proper operation, if applicable;

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

	<ul style="list-style-type: none">(o) Inspect bypass stack components;(p) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and(q) Generally observe that the equipment is maintained in good operating condition. <p>(2) Within 10 operating days following an equipment inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department for a different date to complete all necessary repairs [Authority: COMAR 26.11.08.08-2D(2)].</p> <p>(3) Each HMIWI shall undergo an equipment inspection annually (within 12 months following the previous annual equipment inspection), in accordance with the requirements of §D(1) of this regulation [Authority: COMAR 26.11.08.08-2D(3)].</p> <p>(4) The control device of HMIWI shall undergo an inspection annually (within 12 months following the previous annual inspection), in accordance with the requirements of §D(4) of this regulation, as follows:</p> <ul style="list-style-type: none">(a) Inspect air pollution control device(s) for proper operation, if applicable;(b) Ensure proper calibration of thermocouples, sorbent feed systems, and any other monitoring equipment;(c) Generally observe that the equipment is maintained in good operating condition; and(d) Within 10 operating days following an air pollution control device inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department establishing a date whereby all necessary repairs of the designated facility shall be completed. [Authority: COMAR 26.11.08.08-2D(5)]
	<p>E. Operational Standards</p> <p>The total waste burned in both incinerators shall not exceed 150 tons per day [Authority: condition (5), Part D, Permit to Construct #510-2975-2-0279 M, issued on April 1, 2008]</p>

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}**3200 HAWKINS POINT ROAD****BALTIMORE, MARYLAND 21226****PART 70 OPERATING PERMIT NO. 24-510-2975****Table IV – 1****1.2 Testing Requirements:****A. Emission Standards****A2. Opacity**

- (1) The Permittee shall determine compliance with the opacity limit by conducting an annual performance test (no more than 12 months following the previous performance test) using EPA Reference Method 9 of appendix A. [Authority: COMAR 26.11.03.06C and COMAR 26.11.08.08-2B(4), which references 40 CFR §60.56c; §60.56c(b)(9)]

A2-1 Fugitive Emissions

- (2) The Permittee shall determine compliance with the visible emissions limits for fugitive emissions from fly ash/bottom ash storage and handling by conducting a performance test using EPA Reference Method 22 of appendix A-7 on an annual basis (no more than 12 months following the previous test) [Authority: COMAR 26.11.08.08-2B(4)(a), which references 40 CFR 60.56c(c)(3)].

A1, A3 – A10.

Pollutant	Reference	Reference Method (40 CFR Part 60, Appendix A)
A1. Particulate Emissions (PM)	§60.56c(b)(6)	Method 5, Appendix A-3, or Method 26A, Appendix A-8, or Method 29, Appendix A-8.
A3. Carbon Monoxide (CO)	§60.56c(b)(10)	Method 10 or 10B, Appendix A-4
A4. Dioxins/Furans	§60.56c(b)(11)	Method 23, Appendix A-7.
A5. Hydrogen Chloride (HCl)	§60.56c(b)(12)	Method 26 or 26A, Appendix A-8.
A6. Sulfur Dioxide (SO ₂)	§60.56c(b)(8)	Method 6 or 6C, Appendix A-4
A7. Nitrogen Oxides (NO _x)	§60.56c(b)(7)	Method 7 or 7E, Appendix A-4
A8. Lead (Pb) A9. Cadmium (Cd) A10. Mercury (Hg)	§60.56c(b)(13)	Method 29, Appendix A-8

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

	<p>(3) The Permittee shall determine compliance with the emission limits for the pollutants cited above by conducting annual performance (stack) tests on each incinerator train using the applicable procedures and test methods listed in §60.56c(b)(1) - (14). The annual performance test shall be conducted no more than 12 months following the previous performance test. The use of the bypass stack during a performance test shall invalidate the performance test. If the Permittee operates a certified CEMS for the pollutants CO, HCl, and NO_x, the performance of an annual Relative Accuracy Test Audit (RATA) satisfies the performance (stack) test requirement for those pollutants [Authority: COMAR 26.11.03.06C, COMAR 26.11.08.08-2B(4), which reference 40 CFR §60.56c; §60.56c(c)(2)].</p> <p>COMAR 26.11.08.08-1A(5) “ Compliance and Performance Testing. A person who owns or operates an HMIWI subject to this regulation shall complete the initial and subsequent tests using procedures, conditions, the test methods in 40 CFR §60.56c, Subpart Ec, excluding the fugitive emissions testing requirements under 40 CFR §60.56c(b)(12) and (c)(3).”</p> <p>COMAR 26.11.08.08-2B(4)(a) “ A person who owns or operates an HMIWI subject to §B of this regulation shall complete the initial and subsequent tests which shall meet the conditions and requirements using the test methods and procedures listed under 40 CFR §60.56c(b)(1) to (b)(6) and (b)(9) to (b)(14), except for annual fugitive and CO emissions testing requirements, which shall comply with 40 CFR §60.56c(c)(3) and (4).”</p> <p>COMAR 26.11.08.08-2B(4)(b) “ In addition to the specified test method, compliance with the emission limits in §B may be demonstrated by use of CEMS or any approved alternative non-EPA test methods allowed under 40 CFR §60.56c(b).”</p> <p>COMAR 26.11.0808-2E(1)(b) requires the Permittee to complete the initial compliance testing for the October 6, 2009 standards within 180 days of the final compliance date, October 6, 2014.</p> <p>(4) The Permittee shall determine the <u>maximum charge rate</u> in accordance with 40 CFR §60.51c by the following: For continuous and intermittent HMIWI, 110 percent of the lowest 3-hour average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits [Authority: condition D(6), Permit to Construct 510-2975-2-0279 M, issued on April 1, 2008].</p> <p>(5) The Permittee shall determine the <u>minimum secondary chamber temperature</u> in accordance with 40 CFR §60.51c, which is 90 percent of the highest 3-hour average secondary chamber temperature (taken, as a minimum, once every minute) measured during the most recent performance test demonstrating compliance with the PM, CO, dioxin/furan, and NO_x</p>
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CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}**3200 HAWKINS POINT ROAD****BALTIMORE, MARYLAND 21226****PART 70 OPERATING PERMIT NO. 24-510-2975****Table IV – 1**

	<p>emissions limits, or, for NOx and CO, some other representative period approved by the Department for which certified CEMS are operational and demonstrate compliance [Authority:... 40 CFR §60.56c(d), COMAR 26.11.03.06C(3)]</p> <p>(6) The Permittee shall determine the <u>minimum Hg sorbent flow rate</u> in accordance with 40 CFR §60.51c by the following: 90 percent of the highest 3-hour average Hg sorbent flow rate (taken at a minimum , once every hour) measured during the most recent performance test demonstrating compliance with the Hg emission limit [Authority: EPA November 22, 2006 Alternative Monitoring Request Approval – amended August 9, 2007].</p> <p>(7) The Permittee shall determine the <u>minimum HCl sorbent flow rate</u>, which, in accordance with 40 CFR §60.51c, shall be 90 percent of the highest 3-hour average HCl sorbent flow rate (taken at a minimum, once every hour) measured during the most recent performance test demonstrating compliance with the HCl emission limit or some other representative period approved by the Department for which certified HCl CEMS are operational and demonstrate compliance [Authority: ... 40 CFR §60.56c(d); 40 CFR §60.57c(a); COMAR 26.11.03.06C(3)].</p> <p>(8) For the selective non-catalytic reduction (SNCR) system, the Permittee shall establish the <u>maximum charge rate</u>, the <u>minimum secondary chamber temperature</u>, and the <u>minimum reagent flow rate</u> as site specific operating parameters during the most recent performance tests to determine compliance with the October 6, 2009 emissions limit for NOx or during some other representative period approved by the Department for which NOx CEMS are operational and demonstrate compliance [Authority: ... 40 CFR §60.56c(h)(1)].</p> <p>B. Waste Management Plan C. Operator Training. D. Equipment Inspection Requirements E. Operational Standards</p> <p>{No emissions testing requirements under paragraphs B. - E.}</p>
1.3	<p><u>Monitoring Requirements:</u></p> <p>A. Emission Standards</p> <p>A1. – A10.</p> <p>(1) The Permittee shall comply with the monitoring requirements in 40 CFR §60.57c, subpart Ec as amended by the EPA Alternative Monitoring Approval (See Table 3- Summary of Curtis Bay Energy Operating</p>

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

Parameter Monitoring and Records Requirements Deviation Request Approval) [Authority: COMAR 26.11.08.08-1A(6) and .08-2B(5), 40 CFR 60.57c and EPA's November 22, 2006 Alternative Monitoring Approval, as amended on August 09, 2007]

- (2) The Permittee shall install, calibrate (to manufacturers' specifications), maintain, and operate devices (or establish methods) for monitoring the applicable maximum and minimum operating parameters listed in Table 2 of this Permit [Authority: ... 40 CFR §60.57c(a) and (c)(d)].
- (3) The Permittee shall install, calibrate (to manufacturers' specifications), maintain, and operate a device or method for measuring the use of the bypass stack including date, time, and duration [Authority: ... 40 CFR §60.57c(c)].
- (4) The Permittee shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating days per calendar quarter that the affected facility is combusting hospital waste and/or medical/infectious waste. [Authority: ... 40 CFR 60.57c(e)]

COMAR 26.11.08.08-1A(6) "Monitoring Requirements. A person who owns and operates an HMIWI subject to this regulation shall comply with the monitoring requirements under 40 CFR §60.57c of Subpart Ec."

COMAR 26.11.08.08-2B(5) "Monitoring Requirements. A person who owns and operates an HMIWI subject to this regulation shall comply with the monitoring requirements under 40 CFR §60.57c of Subpart Ec."

- (5) Facilities using a CEMS to demonstrate compliance with any of the emission limits under §60.33e(a), shall:
 - (a) In keeping with §60.37e(a)(1), for any of the emission limits under §60.33e(a)(1) (i.e., the emission guidelines as promulgated on September 15, 1997) determine compliance with the appropriate emission limit(s) using a 12-hour rolling average, calculated each hour as the average of the previous 12 operating hours [Authority:40 CFR 60.56c(c)(3) and (c)(4)(i)]
 - (b) In keeping with §60.37e(a)(2), for any of the emission limits under §60.33e(a)(2) (i.e., the emission guidelines as amended on October 6, 2009) determine compliance with the appropriate emission limit(s) using a 24-hour block average, calculated as specified in section 12.4.1 of EPA Reference Method 19 of Appendix A-7 of 40 CFR part 60 [Authority:40 CFR 60.56c(c)(4)(i) - (5)(ii)]

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

(c) Operate all CEMS in accordance with the applicable procedures under appendices B and F of 40 CFR 60. [Authority:40 CFR 60.56c(c)(4)(ii) and (c)(5)(iii)]

A1. Particulate Emissions - conditions (16) – (17) below.

A2. Opacity

(6) The Permittee shall continuously monitor opacity of the stack gases using a continuous opacity monitor (COM) that is certified in accordance with 40 CFR Part 60, Appendix B and meets the quality assurance criteria of the Department's Air and Radiation Administration's (MDE-ARA) Technical Memorandum 90-01 "Continuous Emission Monitoring (CEM) Policies and Procedures" (October 1999; amended), which is incorporated by reference. [Authority: condition E(15), Permit to Construct 510-2975-2-0279 M, issued on April 1, 2008].

A2-1. Fugitive Emissions - See **§1.2 A** Testing Requirements.

A3. Carbon Monoxide (CO)

A5. Hydrogen Chloride (HCl)

(7) The Permittee shall develop and maintain a preventive maintenance plan for implementing the recommendations in the Carbon Monoxide Control and Hydrogen Chloride Control Evaluation Reports. The plan shall describe the maintenance activity and time schedule for completing each activity. The Permittee shall perform maintenance activities within the time frames established in the plan and shall maintain a log with records of the dates and description of the maintenance that was performed [Authority: COMAR 26.11.03.06C].

(8) The Permittee shall continuously monitor and record CO and O₂ using Continuous Emissions Monitors that are certified in accordance with 40 CFR Part 60, Appendix B and meets the quality assurance criteria of the Department's Air Management Administration Technical Memorandum 90-01 "Continuous Emission Monitoring (CEM) Policies and Procedures" (October 1990), which is incorporated by reference [Authority: condition E(16), Permit to Construct 510-02975-2-0279 M, issued on April 1, 2008]

(9) During periods of temporary malfunction of the CO CEMS, the Permittee shall comply with the monitoring requirements with respect to the minimum secondary chamber temperature and maximum charge rate (each measured on a 3-hour rolling average) of §60.56c(d)(2), §60.56c(e)(1), and §60.57c(a), which references Table 3 of Subpart Ec of Part 60 [Authority: **COMAR 26.11.03.06C(3)**].

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

(10) The Permittee shall continuously monitor and record HCl using a Continuous Emissions Monitor that is installed, operated and maintained in conformance with §60.13 Monitoring requirements including Performance Specification 18—Performance Specifications and Test Procedures for Gaseous Hydrogen Chloride (HCl) Continuous Emission Monitoring Systems at Stationary Sources in Appendix B and the quality assurance procedures specified in Appendix F to Part 60 **[Authority: 40 CFR 60 Appendix B]**.

(11) During periods of known or suspected malfunction of the HCl CEMS, the Permittee shall maintain the 3-hour rolling average HCl sorbent flow rate (taken at a minimum, once every hour) above the minimum HCl sorbent flow rate, as determined in accordance with paragraph **§1.2 A(9)** above **[Authority: COMAR 26.11.01.11B(4) and COMAR 26.11.03.06C(3)]**.

A4. Dioxins/Furans

(12) The Permittee shall install, calibrate (to manufacturer's specifications), maintain the fabric filter inlet temperature device and operate the incinerators with the fabric filter inlet temperature at no less than 330°F and no greater than 479°F based on a rolling 3-hour average **[Authority: EPA November 22, 2006 Alternative Monitoring Request Approval - amended August 09, 2007]**.

(13) On approval from the Department and the EPA, the Permittee may establish alternative upper and lower temperature limits by submitting confirmatory test data, manufacturer equipment specifications, vendor guarantees, and, on approval by the Department and, the EPA, by conducting subsequent performance tests **[Authority: ...40 CFR §60.56c(j) -(k)]**.

(14) The Permittee shall maintain the incinerator carbon monoxide (CO) emissions at no greater than 11 parts per million by volume, adjusted to 7 percent (%) oxygen measured on a dry basis at standard conditions (ppmdv), based on a 24-hour block average **[Authority: COMAR 26.11.03.06C and EPA November 22, 2006 Alternative Monitoring Request Approval - amended August 09, 2007]**.

A10. Mercury

(15) The Permittee shall operate the powdered activated carbon (PAC) injection system at a feed rate no lower than 90% of the highest PAC feed rate based on a 3-hour rolling average (readings taken at least once every hour) measured during the most recent performance test demonstrating compliance with the mercury emission limit The Permittee will utilize only PAC engineered for mercury control (i.e. containing a mercury oxidizing chemical additive such as bromine or mechanically engineered to increase mercury capture). **[Authority: EPA November 22, 2006 Alternative Monitoring Request Approval – amended August 9, 2007]**

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}**3200 HAWKINS POINT ROAD****BALTIMORE, MARYLAND 21226****PART 70 OPERATING PERMIT NO. 24-510-2975****Table IV – 1**

The Permittee shall evaluate potential mercury process monitors, select and install a mercury process inlet monitor, and operate the monitor continuously to be able to detect sudden increases in mercury concentration and automatically increase the PAC feed rate accordingly to prevent exceedances of the mercury emission limit. The mercury process monitor will operate continuously except during periodic calibration and maintenance and/or repair in accordance with manufacturer's specifications. Mercury process monitor implementation schedule:

- Select and purchase monitor within 120 days of issuance of this permit;
- Install, start-up and test monitor within 180 days of issuance of this permit;
- Commence operation of monitoring and automatic PAC feed control within 240 days of issuance of this permit.

[Authority: COMAR 26.11.03.06C].

- A1. Particulate Matter A9. Cadmium
 A4. Dioxins/Furans A10. Mercury
 A8. Lead

- (16) The Permittee shall maintain an opacity of 10 percent or less based on a 3-hour rolling average as determined by a continuous opacity monitoring system (COMS). The COMS shall be operated and maintained in accordance with applicable COMAR requirements and Technical Memorandum 90-01. The operational limit is not applicable during periods of start-up, shutdown or malfunction [Authority: EPA November 22, 2006 Alternative Monitoring Request Approval – amended August 9, 2007].

- (17) Exceedance of the 3-hour rolling average 10 percent opacity operational limit shall require the Permittee to immediately initiate an evaluation of bags for possible mechanical or other failure, and expeditious replacement of failed bag(s) [Authority: EPA November 22, 2006 Alternative Monitoring Request Approval – amended August 9, 2007].

- A6. Sulfur Dioxide (SO₂) - No additional monitoring requirements.

Compliance with the HCl standard and the annual stack test for SO₂ assure compliance with the emission standard for SO₂.

- A7. Nitrogen Oxides (NO_x)

- (18) In lieu of continuous NO_x reactant injection rate monitoring required by 40 CFR §60.56c(h), the Permittee, may continuously monitor and record NO_x using a Continuous Emissions Monitor that is installed, operated and maintained in conformance with §60.13 Monitoring requirements, including Performance Specification 2- Specifications and Test Procedures for SO₂ and NO_x Continuous Emission Monitoring Systems in Stationary Sources in Appendix B and the quality assurance procedures specified in Appendix F to

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

	<p>Part 60 [Authority: ... 40 CFR §60.56c(c)(5)(ii) and §60.56c(j)].</p> <p>(19) The Permittee shall install and maintain a NO_x CEMS with feedback control of the SNCR reagent flows to each incinerator. Upon certification and operation of the NO_x CEMS, compliance with §60.57c(b)(2) –(3) and §60.56c(h)(2)-(3) cited by condition (21) below is not required, except as noted in condition (20) below [Authority: ... 40 CFR §60.56c(c)(5)(ii)-(iii) and §60.56c(j)].</p> <p>(20) During periods of temporary malfunction of the NO_x CEMS, the Permittee shall comply with the requirements of §60.57c(b)(2) –(3) and §60.56c(h)(2)-(3) cited by condition (21) below [Authority: COMAR 26.11.01.11B(4)].</p> <p>(21) The Permittee shall install, calibrate (to manufacturers' specifications) maintain and, except as provided above, operate devices (or establish methods) for monitoring the operating parameters listed in §60.56c(h) such that such devices (or methods) measure and record values of the operating parameters at all times. Operating parameter values shall be measured and recorded at the following minimum frequencies [Authority: 40 CFR §60.57c(b)]:</p> <p>§60.57c(b)(1) Maximum charge rate shall be measured continuously and recorded once each hour;</p> <p>§60.57c(b)(2) Minimum secondary chamber temperature shall be measured continuously and recorded once each minute; and</p> <p>§60.57c(b)(3) Minimum reagent flow rate shall be measured hourly and recorded once each hour.</p> <p>§60.56c (h)(2). Following the date on which the initial performance test is completed or is required to be completed under §60.8, whichever date comes first, ensure that the affected facility does not operate above the maximum charge rate, or below the minimum secondary chamber temperature or the minimum reagent flow rate measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times. Operating parameter limits do not apply during performance tests.</p> <p>§60.56c(h)(3). Except as provided in paragraph (i) of this section, operation of the affected facility above the maximum charge rate, below the minimum secondary chamber temperature, and below the minimum reagent flow rate simultaneously shall constitute a violation of the NO_x emissions limit.</p> <p>B. Waste Management Plan C. Operator Training D. Equipment Inspection Requirements</p>
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CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1	
	<p>{See §1.4 B. - D. Record Keeping Requirements}</p> <p>E. Operational Standards</p> <p>(1) The net weight of each individual charge to each incinerator shall be accurately determined [Authority: condition D(4), Permit to Construct 510-2975-2-0295 M, issued on April 1, 2008].</p> <p>(2) Plan for Compliance Requirements - See § 1.4 E. <u>Record Keeping Requirements</u></p>
1.4	<p><u>Record Keeping Requirements:</u></p> <p>A. Emission Standards for Large HMIWIs</p> <p>A1- A10</p> <p>(1) The Permittee shall maintain the following information (as applicable) for a period of at least 5 years [Authority: COMAR 26.11.08.08-1A(7) and .08-2B(6), which cite 40 CFR §60.58c and EPA's November 22, 2006 Alternative Monitoring Approval - amended August 09, 2007]:</p> <p>§60.58c(b)(1): Calendar date of each record;</p> <p>§60.58c(b)(2): Records of the following data:</p> <p>(i) Concentrations of any pollutant listed in §60.52c or measurements of opacity as determined by the continuous emission monitoring system;</p> <p>(ii) Results of fugitive emission (by EPA Reference Method 22) tests;</p> <p>(iii) HMIWI charge dates, times, and weights and hourly charge rates;</p> <p>(iv) Fabric filter inlet temperature during each minute of operation;</p> <p>(vi) Amount and type of Hg sorbent used during each hour of operation;</p> <p>(vii) Amount and type of HCl sorbent used during each hour of operation, during periods of HCl CEMS maintenance or malfunction.</p> <p>(viii) Amount and type of NOx reagent used during each hour of operation, during periods of NOx CEMS maintenance or malfunction;</p> <p>(ix) In keeping with §60.56c(d) and (h), the secondary chamber temperature during each minute of operation.,</p>

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

	<p>(xv) Records indicating use of the bypass stack, including dates, times and durations;</p> <p>(xvi) For affected facilities complying with complying with §60.56c(j) and §60.57c(d), the owner or operator shall maintain all operating parameter data collected;</p> <p>(xix) Concentrations of CO as determined by the continuous emission monitoring system:</p> <p>§60.58c(b)(3) Identification of calendar days for which data on emission rates or operating parameters specified under paragraph (b)(2) of §60.58c, as amended by EPA's November 22, 2006 Alternative Monitoring Approval, have not been obtained, with an identification of the emission rates or operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken.</p> <p>§60.58c(b)(4) Identification of calendar days, times and duration of malfunctions, a description of the malfunction and the corrective action taken.</p> <p>§60.58c(b)(5) Identification of calendar days for which data on emission rates or operating parameters specified under paragraph (b)(2) of §60.58c, as amended by EPA's November 22, 2006 Alternative Monitoring Approval, exceeded the applicable limits, with a description of the exceedances, reasons for such exceedances, and a description of corrective actions taken.</p> <p>§60.58c(b)(6) The results of the initial, annual, and any subsequent performance tests conducted to determine compliance with the emission limits and/or to establish operating parameters, as applicable.</p> <p>§60.58c(b) (11) Records of calibration of any monitoring devices as required under §60.57c (a), (b), and (c), as amended by EPA's November 22, 2006 Alternative Monitoring Approval.</p>
(2)	The Permittee shall maintain for a period of at least 5 years records of the 6-minute and 3-hour rolling average opacity records [Authority: EPA November 22, 2006 Alternative Monitoring Approval - amended August 09, 2007].
(3)	The Permittee shall maintain for a period of at least 5 years records of the date and time of identified bag failures including the date and time that failed bags were replaced [Authority:40 CFR §60.58c(b)(4) and EPA November 22, 2006 Alternative Monitoring Approval - amended August 09, 2007].
(4)	Permittee shall keep for a period of at least 5 years, records of the results of the initial, annual and any subsequent performance (stack) tests conducted

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

to determine compliance with the emission limits and/or to establish or re-establish operating parameters, as applicable , and a description, including sample calculations, of how the operating parameters were established or re-established, if applicable [Authority: COMAR 26.11.03.06C; 40 CFR §60.58c(b)(6)].

Additional Requirement

A2. Opacity

A3. Carbon Monoxide

A5. Hydrogen Chloride

A7. Nitrogen Oxides

- (5) The Permittee shall maintain all records necessary to comply with the data reporting requirements of COMAR 26.11.01.10 and .11 [Authority: COMAR 26.11.03.06C].

A10. Mercury

- (6) Permittee shall keep for at least 5 years, records of customer outreach activities intended to ensure that mercury is excluded from waste sent to the facility, including:
- information sheets sent quarterly, advising waste generators about source separation, waste exclusion, packaging, and labeling requirements (generator rules); and
 - specific communications with generators about violations of generator rules

B. Waste Management Plan

The Permittee shall keep a current copy of the Waste Management Plan on site and shall make it available to authorized MDE or EPA inspectors upon request [Authority: COMAR 26.11.03.06C]

C. Operator Training

The Permittee shall keep the following records:

§60.58c(b)(8) Records showing the names of the HMIWI operators who have completed review of the information in §60.53c(h) as required by § 60.53c(i), including the date of the initial review and all subsequent annual reviews.

§60.58c(b)(9) Records showing the names of the HMIWI operators who have completed the operator training requirements, including documentation of training and the dates of training.

§60.58c(b)(10) Records showing the names of the HMIWI operators who have

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1	
	<p>met the criteria for qualification under § 60.53c and the dates of their qualification.</p> <p>D. Equipment Inspection Requirements</p> <p>The Permittee shall keep records of the annual air pollution control device inspection, any required maintenance, and any repairs not completed within 10 days of an inspection or the time frame established by the Department or EPA [Authority: 40 CFR § 60.58c(b)(2)(xvii)]</p> <p>E. Operational Standards</p> <p>(1) The following apply:</p> <p>(a) The Permittee shall maintain records of the charge dates, times, and weights and hourly charge rates [Authority: 40 CFR §60.58c(b)(2)(iii)] .</p> <p>(b) The net weight of each individual charge to each incinerator shall be accurately determined [Authority: condition D(4), Permit to Construct 510-2975-2-0295M, issued on April 1, 2008].</p> <p>(2) <i>Plan for Compliance.</i> The Permittee shall keep all of the test result records necessary to establish evidence of compliance with the milestone dates.</p>
1.5	<p><u>Reporting Requirements:</u></p> <p>A. Emission Standards</p> <p>A1. through A10.</p> <p>(1) The Permittee shall submit a test protocol to the Department for approval at least 30 days prior to the scheduled test date. The Permittee shall submit a copy of the results of compliance stack tests to the Department within 45 days after the date the test was completed [Authority: COMAR 26.11.03.06C and condition F(7), Permit to Construct 510-2975-2-0279 M issued on April 1, 2008]</p> <p>(2) The Permittee shall submit the following reports. These reports shall include all the operating parameters identified in Table 2 of EPA's November 22, 2006 Alternative Monitoring Request and the following information [Authority: ... 40 CFR 60.58c and EPA's November 22, 2006 Alternative Monitoring Approval - amended August 09, 2007]:</p> <p>§60.58c(c) The Permittee shall submit the information specified below no later than 60 days following the initial performance test. All reports shall be signed by the facilities manager:</p>

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

	<p>The initial performance test data as recorded under § 60.56c(b)(1) through (14), as applicable.</p> <p>The values of the site specific operating parameters established pursuant to §60.56c(d), (h) or (j) as applicable.</p> <p>§60.58c(d) An annual report shall be submitted 1 year following the submission of the information in paragraph (c) of 40 CFR 60.58c and subsequent reports shall be submitted no more than 12 months following the previous report (once the unit is subject to permitting requirements under Title V of the Clean Air Act, the owner or operator of an affected facility must submit these reports semiannually). The annual report shall include the information specified in paragraphs (d)(1) through (d)(9) and (d)(11) of 40 CFR 60.58c, as amended by EPA's November 22, 2006 Alternative Monitoring Approval. All reports shall be signed by the facilities manager.</p> <p>§60.58c(d)(1) The values for the site-specific operating parameters established pursuant to §60.56c(d), (h), or (j), as applicable.</p> <p>§60.58c(d)(2) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported, pursuant to §60.56c(d), (h), or (j), as applicable.</p> <p>§60.58c(d)(3) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded pursuant to §60.56c(d), (h), or (j) for the calendar year preceding the year being reported, in order to provide the Administrator with a summary of the performance of the affected facility over a 2-year period.</p> <p>§60.58c(d)(4) Any information recorded under paragraphs (b)(3) through (b)(5) of 40 CFR 60.58c, for the calendar year being reported.</p> <p>§60.58c(d)(5) Any information recorded under paragraphs (b)(3) through (b)(5) of 40 CFR 60.58c, for the calendar year preceding the year being reported, in order to provide the Administrator with a summary of the performance of the affected facility over a 2-year period.</p> <p>§60.58c(d)(6) If a performance test was conducted during the reporting period, the results of that test.</p> <p>§60.58c(d)(7) If no exceedances or malfunctions were reported under paragraphs (b)(3) through (b)(5) of 40 CFR §60.58c, for the calendar year being reported, a statement that no exceedances occurred during the reporting period.</p> <p>§60.58c(d)(8) Any use of the bypass stack, the duration, reason for</p>
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CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

malfunction, and corrective action taken.

§60.58c(d)(9) See **§1.5 D. Equipment Inspection Requirements** below.

§60.58c(d)(11) Concentrations of CO as determined by the continuous emissions monitoring system.

§60.58c(e) The owner or operator of an affected facility shall submit semiannual reports containing any information recorded under paragraphs (b)(3) through (b)(5) of 40 CFR §60.58c no later than 60 days following the reporting period. The first semiannual reporting period ends 6 months following the submission of information in paragraph (c) of 40 CFR 60.58c. Subsequent reports shall be submitted no later than 6 calendar months following the previous report. All reports shall be signed by the facilities manager.

§60.58c(f) All records specified under paragraph (b) of 40 CFR 60.58c, shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the Administrator.

Additional Pollutant Specific Reporting Requirements from Permit to Construct

A2. Opacity

A3. Carbon Monoxide

A5. Hydrogen Chloride

A7. Nitrogen Oxides

(3) The Permittee shall report all COMS or CEMS downtime that lasts or is expected to last more than 24 hours to the Department by telephone before 10 a.m. of the first regular business day following the breakdown. The system breakdown report required by COMAR 26.11.01.10D(1)(a) or 26.11.01.11E(1)(b) shall include the reason, if known, for the breakdown and the estimated period of time that the COMS or CEMS will be down. The owner or operator of the CEMS shall notify the Department by telephone when an out-of-service CEMS is back in operation and producing valid data [Authority: condition F(3), Permit to Construct 510-2975-2-0279 M issued on April 1, 2008; COMAR 26.11.03.06C(3)].

(4) The Permittee shall submit a quarterly summary report to the Department not later than 30 days following each calendar quarters. The report shall be in a format approved by the Department, and shall include the following [Authority: condition F(4), Permit to Construct 510-2975-2-0279 M issued on April 1, 2008].:

(a) The cause, time periods, and magnitude of all emissions which exceed the applicable emission standards;

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 1

- (b) The source downtime including the time and date of the beginning and end of each downtime period and whether the source downtime was planned or unplanned;
- (c) The time periods and cause of all CEM downtime including records of any repairs, adjustments, or maintenance that may affect the validity of emission data;
- (d) Quarterly totals of excess emissions, installation downtime, and CEM downtime during the calendar quarter;
- (e) Quarterly quality assurance activities; and
- (f) Daily calibration activities that include reference values, actual values, absolute or percent of span differences, and drift status; and
- (g) Other information required by the Department that is determined to be necessary to evaluate the data, to ensure that compliance is achieved, or to determine the applicability of this regulation.”

B. Waste Management Plan

The Permittee shall submit a revised waste management plan meeting the requirements of 40 CFR §60.55c within 60 days of completion of the required initial compliance tests under regulation COMAR 26.11.08.08-2 [Authority: COMAR 26.11.08.08-2B(3)].

C. Operator Training

The Permittee shall report as required under Section III, Part 4, of this Permit, *Report of Excess Emissions and Deviations*.

D. Equipment Inspection Requirements.

The Permittee shall include in the annual report required under §60.58c(d) records of the annual air pollution control device inspection, any required maintenance, and any repairs not completed within 10 days of an inspection or the timeframe established by Department or the EPA Administrator [Authority: ... 40 CFR §60.58c(d)(9)].

E. Operational Standards

HMIWI waste monitoring requirements. The Permittee shall include in the (semi-) annual report required by § 60.58c(d) of this permit any exceedance of the 150 ton per day limit [Authority: COMAR 26.11.03.06C]

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}**3200 HAWKINS POINT ROAD****BALTIMORE, MARYLAND 21226****PART 70 OPERATING PERMIT NO. 24-510-2975**

EPA has approved alternative monitoring requests from Curtis Bay Energy. Table 1 details the Alternative Surrogate Compliance Indicators for dioxins/furans and other emissions.

Table 2 summarizes the approved Alternative Operating Parameter Monitoring and Records Requirements to which Curtis Bay Energy is subject.

Table 1- Alternative Surrogate Compliance Indicators for CDD/CDF and Other Emissions

<i>If the Curtis Bay Energy incinerator unit...</i>	<i>Then Curtis Bay Energy is in violation of...</i>
Operates fabric filter inlet temperature below 330°F or above 479°F (3-hour rolling average) or operates fabric filter inlet temperature outside other limits approved by EPA..	CDD/CDF limit
<i>2b. For compliance with the <u>October 6, 2009 limits</u> operates above the maximum charge rate (3-hour rolling average), above the CO emission limitation of 11 ppmdv (7% O₂, 24-hour block average) and above the 10% opacity operational limit (3-hour rolling average) simultaneously during any 3-hour period</i>	CDD/CDF, PM, and CO limits
3. Operates above the maximum charge rate (3-hour rolling average) and below the minimum Hg sorbent flow rate (3-hour rolling average), simultaneously.	Hg limit
4. Operates the bypass stack	PM, CDD/CDF, HCl, Pb, Cd, and Hg limits

Notes:

1. The above operating parameter limits/restrictions do not apply during performance tests for demonstrating compliance.
2. Curtis Bay Energy may conduct a performance test within 30 days of a violation of the above operating limits/restrictions in order to demonstrate that its HMIWI unit is not in violation of an emission limit(s)
3. CO and HCl compliance is determined directly from certified CEMS and stack test data.
4. The primary compliance methods are the performance tests, as stipulated in the 111(d)/129 Plan.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}**3200 HAWKINS POINT ROAD****BALTIMORE, MARYLAND 21226****PART 70 OPERATING PERMIT NO. 24-510-2975****Table 2. Summary of Curtis Bay Energy Operating Parameter Monitoring and Records Requirements Deviation Request Approval**

	Data Measurement	Data Recording
Waste feed charge rate* (3-hour rolling average)	Continuously	1 x hour
Fabric filter inlet temperatures*** (3-hour rolling average)	Continuously	1 x minute
Oxygen concentration (3-hour rolling average)	Continuously	1 x minute
Carbon monoxide concentration* (12-hour rolling average or 24-hour block average as applicable)	Continuously	1 x minute
Mercury sorbent (PAC) flow rate** (3-hour rolling average)	Continuously	1 x hour
HCl concentration* (12-hour rolling average or 24-hour block average as applicable)	Continuously	1 x minute
Percent opacity * (6-minute and 3-hour rolling average)	Continuously	1 x minute
Use of bypass stack	Continuously	1 x minute

Notes:

* Maximum operating limit applies

** Minimum operating limit applies

***Both maximum and minimum operating limit applies

O₂, CO, and HCl concentrations are determined at 7% O₂ and dry standard conditions.**[Authority: EPA November 22, 2006 Alternative Monitoring Request Approval - amended August 09, 2007]**

Table IV – 2	
2.0	<u>Emissions Unit Number(s)</u> EU-03 and EU -04: Storage Silos feeding alkaline sorbent material to either Unit 1 or Unit 2 dry scrubber.
2.1	<u>Applicable Standards/Limits:</u> A. Visible Emissions COMAR 26.11.06.02C(2) - A person may not cause or permit the discharge of emissions from any installation or building, other than water in an uncombined form, which is visible to human observers.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}**3200 HAWKINS POINT ROAD****BALTIMORE, MARYLAND 21226****PART 70 OPERATING PERMIT NO. 24-510-2975**

Table IV – 2	
	<p>B. Particulate Emissions COMAR 26.11.06.03B(2) - A person may not cause or permit particulate matter to be discharged from any installation in excess of 0.03 gr/SCFD (68.7 mg/dscm).</p>
2.2	<p><u>Testing Requirements:</u></p> <p>A. and B. See Monitoring Requirements</p>
2.3	<p><u>Monitoring Requirements:</u></p> <p>A. The Permittee shall perform a visual observation of the exhaust from the baghouse, when the silo is being filled, at least one minute once per month to determine if there are any visible emissions. If visible emissions are observed, the Permittee shall perform the following [Authority: COMAR 26.11.03.06C]:</p> <ol style="list-style-type: none"> (1) Inspect all process and/or control equipment that may affect visible emissions; (2) Perform all necessary repairs and/or adjustments to all processes and/or control equipment, within 48 hours, so that visible emissions in the exhaust gases are eliminated; (3) Document, in writing, the results of the inspections and the repairs and/or adjustments made to the processes and/or control equipment; and (4) If visible emissions have not been eliminated within 48 hours, the Permittee shall perform a Method 9 observation once daily for an 18-minute period until corrective actions have eliminated the visible emissions. <p>B. The Permittee shall develop and maintain a preventative maintenance plan for the baghouse that describes the maintenance activity and time schedule for completing each activity. The Permittee shall perform maintenance activities within the time frames established in the plan and shall maintain a log with records of the dates that maintenance was performed. [Authority: COMAR 26.11.03.06C]</p>
2.4	<p><u>Record Keeping Requirements:</u></p> <p>A. The Permittee shall maintain records of the results of the monthly inspections for at least five (5) years and make them available to the Department upon request [Authority: COMAR 26.11.03.06C]</p>

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

Table IV – 2	
	B. The Permittee shall maintain the log of inspection and maintenance records on site for at least five (5) years and make it available to the Department upon request. [Authority: COMAR 26.11.03.06C]
2.5	<u>Reporting Requirements:</u> A. and B. See Record Keeping Requirements

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

SECTION V INSIGNIFICANT ACTIVITIES

This section provides a list of insignificant emissions units that were reported in the Title V permit application. The applicable Clean Air Act requirements, if any, are listed below the insignificant activity.

- (4) ✓ Space heaters utilizing direct heat transfer and used solely for comfort heat;
- (16) Containers, reservoirs, or tanks used exclusively for:
- (d) No. 12 Storage of lubricating oils;
- (25) ✓ Comfort air conditioning subject to requirements of Title VI of the Clean Air Act;
- (29) ✓ Laboratory fume hoods and vents;

For the following, attach additional pages as necessary:

- (31) any other emissions unit, not listed in this section, with a potential to emit less than the "de minimis" levels listed in COMAR 26.11.02.10X (list and describe units):

No. 1 300 gallon diesel oil above ground tank

No. Varies Propane bottles used to power lift trucks

- (32) any other emissions unit at the facility which is not subject to an applicable requirement of the Clean Air Act (list and describe):

(None listed in the application)

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

SECTION VI STATE-ONLY ENFORCEABLE CONDITIONS

The Permittee is subject to the following State-only enforceable requirements:

1. Applicable Regulations:

- (a) COMAR 26.11.06.08 and 26.11.06.09, which generally prohibit the discharge of emissions beyond the property line in such a manner that a nuisance or air pollution is created.
- (b) COMAR 26.11.15.05, which requires that the Permittee implement “Best Available Control Technology for Toxics” (T – BACT) to control emissions of toxic air pollutants.
- (c) COMAR 26.11.15.06, which prohibits the discharge of toxic air pollutants to the extent that such emissions will unreasonably endanger human health

2. Operating Conditions:

- (a) Except as otherwise provided in this part, the HMIWIs shall be operated in accordance with specifications included in the application and any operating procedures recommended by equipment vendors unless the Department provides written approval for alternative operating procedures.
- (b) The Permittee shall keep the incinerator and associated process equipment, air pollution control equipment, instrumentation and controls, gauges, monitors, and recorders properly maintained, calibrated, and operated in accordance with the manufacturer's recommendations and specifications so as to accurately indicate and assure proper operating conditions and maintain continuous compliance with all applicable requirements.
- (c) The Permittee shall properly calibrate and operate instruments to continuously monitor and record the furnace zone exit temperatures; the solid waste feed rate; the pressure drop across the baghouse system; and the inlet temperature of the dry scrubber system. [Reference: Condition E (12), Permit to Construct #510-2975-2-0279 M issued on April 1, 2008].
- (d) The Permittee is prohibited from burning hazardous waste as defined in COMAR 26.13.03.
- (e) The net weight of each individual charge to each incinerator shall be accurately determined.
- (f) The total waste burned in both incinerators shall not exceed 150 tons per day.
- (g) The maximum charge rate shall be determined in accordance with 40 CFR §60.51c by the following: For continuous and intermittent HMIWI, 110 percent of the lowest 3-hour average charge rate measured during the most recent performance test demonstrating compliance with all applicable emission limits.
- (h) Ash shall be visually inspected periodically during each operating day to assure the complete combustion of the waste.

CURTIS BAY ENERGY, LIMITED PARTNERSHIP {AI# 439}

3200 HAWKINS POINT ROAD

BALTIMORE, MARYLAND 21226

PART 70 OPERATING PERMIT NO. 24-510-2975

- (i) Only natural gas or No. 2 fuel oil shall be used as auxiliary fuel.
- (j) All incinerator operators must be trained in accordance with the requirements of COMAR 26.11.08.09.
- (k) The Permittee shall operate in compliance with the Department's Waste Management Administration's Refuse Disposal Permit #2005-WMI-0036 and any subsequent permits issued.

3. Monitoring

The Permittee shall maintain a daily log book containing the following records:

- (a) Hours per day of operation of each furnace;
- (b) Maintenance of the air pollution control system;
- (c) Malfunction and repair of equipment items;
- (d) Quantity of refuse received and charged to incinerator.

4. Record Keeping and Reporting:

- (a) The Permittee shall maintain the daily log book at the facility. The most recent 3 years of data shall be readily available for the Department inspection.
- (b) The Permittee shall submit to the Department, by April 1 of each year during the term of this permit, a written certification of the results of an analysis of emissions of toxic air pollutants from the Permittee's facility during the previous calendar year. The analysis shall include either:
 - (i) a statement that previously submitted compliance demonstrations for emissions of toxic air pollutants remain valid; or
 - (ii) a revised compliance demonstration, developed in accordance with requirements included under COMAR 26.11.15 & 16, that accounts for changes in operations, analytical methods, emissions determinations, or other factors that have invalidated previous demonstrations.

Exhibit E

FROM	NAME & TITLE	Rudolph S. Chow, P.E., Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building		
	SUBJECT	City Council Bill 18-0306		

DATE: January 28, 2019

TO

The Honorable President and Members
of the Baltimore City Council
c/o Natawna Austin
Room 400 – City Hall

I am herein reporting on City Council Bill 18-0306 introduced by Council Member Reisinger, Henry, Costello, Scott, Bullock, Stokes, Burnett, Cohen, Middleton, Dorsey, Pinkett, Sneed, and Clarke.

The purpose of the Bill is to regulate the emissions from commercial solid waste incinerators; define certain terms; require the continuous monitoring of certain pollutants; setting emissions limits for certain pollutants; require the production and public disclosure of certain emissions reports; require commercial solid waste incinerators to allow certain inspections; establish a certification process for air monitoring contractors; set certain penalties; set special effective dates; and generally relating to clean air regulations.

The proposed legislation would establish air quality limits for certain specified pollutants emitted by commercial solid waste incinerators located within the limits of Baltimore City. The specified limits for Mercury and Sulfur Dioxide would have to be met by January 1, 2020 and the specified limits for Dioxins/Furans and Nitrogen Oxides (NOx) would have to be met by January 1, 2022. Continuous monitoring of emissions would be reported in the form of daily reports submitted to an air monitoring contractor.¹ The air monitoring contractor would make these and other reports available to the public on a publicly accessible webpage. In addition, the air monitoring contractor would have to provide reports to the Baltimore City Health Department in the form specified by the Health Commissioner. This monitoring and reporting is presumed to be in addition to any required monitoring and reporting provided by these facilities to the Maryland Department of the Environment. An air monitoring contractor would also be responsible to periodically inspect the continuous emissions monitoring systems no fewer than four (4) times each calendar year to verify that the systems are operating correctly. Inspections would be conducted at the times and intervals chosen by the Health Commissioner. The legislation stipulates civil and criminal penalties for any violation of the provisions or rules or regulations generating from the proposed "Baltimore Clean Air Act". It further stipulates fines and penalties for singular, simultaneous, and continuous violations of the Act.

Based on the definitions in the legislation, there are currently two facilities which would be subject to this legislation: the Medical Waste Incinerator and the Baltimore Refuse Energy Systems Company (BRESCO) waste-to-energy facility owned and operated by Wheelabrator Technologies, Inc. The City of Baltimore has a contractual relationship with BRESCO for acceptance of municipal solid waste collected from City households, small businesses, small non-profits,

¹ The legislation stipulates the requirements that the Baltimore City Health Department must follow to certify air monitoring contractors. Certification could begin as early as six (6) months after the enactment date of the ordinance.

municipal buildings, and some condominium regimes. In CY 2018 the City paid BRESKO \$8,883,499 in tipping fees to dispose of its mixed refuse. The portion of mixed waste that does not go to BRESKO is disposed of at the City-owned Quarantine Road Landfill. As part of the contractual relationship, Baltimore City accepts BRESKO ash for disposal at the Landfill by charging the company a per-ton fee. In FY 2018 the tipping fees the City received for BRESKO ash disposal totaled \$2,513,332. BRESKO collects a City solid waste surcharge from users of the incinerator which is remitted to the City, along with site lease payments, a host fee, and personal and real property taxes; all of which totaled \$7,304,297 in revenue in CY 2018. This information is meant to be informative, but should not be considered a substitute for a detailed fiscal impact analysis that should involve the assistance of the Department of Finance.

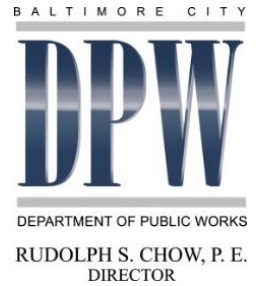
Should City Council Bill 18-0306 be enacted, significant changes to the BRESKO facility would be necessary to meet the emission levels for NOx and other pollutants listed in the legislation. It would be expected that, if Wheelabrator decided to invest in the required improvements, the facility would have to be shut down for some indeterminate period. Wheelabrator could also decide to shut the facility down completely. The City would have to decide what the most cost-effective and feasible option or options would be for redirecting its disposal of approximately 200,000 tons of trash per year in the short- and long-term. This Department has just begun its study of the solid waste management processes and the opportunities for investing in new and more diversified means to manage the waste stream in the future, which will include strategies and programs to reduce waste generated and to increase recycling and composting. The Department is also in the midst of a State permit process that will allow for the expansion of the Quarantine Road Landfill. Disposal of all 200,000 tons of waste at the Landfill would result in a drastically reduced life capacity, and depending on how long this sole disposal option would have to be used, could overtake the capacity before expansion work is completed. Under these circumstances, the City might have to decide to stop accepting waste from private haulers and non-profits, in order to conserve space for the waste the City must collect, thus eliminating tipping fee revenue.

Municipal landfills in neighboring counties could be potential options for alternative disposal sites, assuming those counties would be amenable to accepting large quantities of waste and at what cost. Other entities using the BRESKO facility would also be looking for disposal options, which could drive up tipping fees or cause counties to turn outside users away to preserve their landfill space. Currently, tipping fees at other Maryland landfills range from \$67 to \$100 per ton. The City does not pay tipping fees for waste disposed at the City-owned landfill but does pay a \$54.95 per ton tipping fee for the waste disposed at BRESKO. In addition to the extra expense of tipping fees, trucking the trash out of the City or out of state to a landfill or other disposal facility requires: additional transportation time; more equipment, vehicles, fuel, and drivers; and more transfer facilities to manage the trash. These investments of funds would be in addition to the development of any alternative facilities to divert or dispose of City-generated trash in the long-term.

The Department of Public Works wishes to point out that any interim or long-term impact of enacting City Council Bill 18-0306 will require the redirection of funding to effectively manage mixed refuse in a safe manner.


Rudolph S. Chow, P.E.
Director

Exhibit F



BALTIMORE CITY DEPARTMENT OF PUBLIC WORKS

Fiscal Analysis of Possible Impacts of City Council Bill 18-0306 - Health Code - Clean Air Regulation

February 2019

On Wednesday, January 30, 2019, the Baltimore City Council Land Use and Transportation Committee held a hearing on City Council Bill 18-0306 - Health Code - Clean Air Regulation, which, if enacted, would impose stricter emissions standards on commercial solid waste incinerators in Baltimore City. This legislation would apply to two facilities - the Curtis Bay Medical Waste Services incinerator and the Baltimore Refuse Energy Systems Company (BRESKO) waste-to-energy facility. The owners of BRESKO have expressed that there may be a need to shut down the facility as a result of this legislation.

This fiscal analysis was prepared by the Department of Public Works (DPW) to estimate the impact the near-term closure of BRESKO would have on DPW Bureau of Solid Waste operations and on the City's revenues and expenditures.

DPW is currently in the early stages of a [Long-Term Solid Waste Master Planning process](#). The consultant engaged in this study will compile the data and feedback gathered to develop a set of recommendations to DPW for increasing waste reduction, reuse, recycling, and composting. It will also include recommendations for managing what's left in a sustainable and cost-conscious manner. While the results of this study will not be available until the end of this calendar year, we do know that waste reduction facilities and programs will certainly require capital and operating investments to effectively reduce, reuse, and manage the City's solid waste stream.

As a result, this fiscal note is limited to assessing the impact of several BRESKO scenarios on the scope of our current waste stream and disposal means.

City's Relationship with Baltimore Refuse Energy Systems Company (BRESKO)

Baltimore City is one of several jurisdictions, along with private refuse haulers, that use the services of BRESKO to dispose of its collected mixed refuse. Prior to disposing of the collected mixed refuse, BRESKO recovers recyclable materials and then combusts the remaining mixed refuse, reducing the volume of the refuse by 90% in the form of ash¹. The combustion process produces steam and electricity which is sold to local businesses and to the City.

DPW's Bureau of Solid Waste collects municipal waste from City households, small businesses, small non-profits, municipal buildings, and some condos. About half of this waste (51%)² is brought to BRESKO for disposal. The portion of mixed waste that does not go to BRESKO is disposed of at the City's Quarantine Road Landfill (QRL). Baltimore City has a contractual relationship with BRESKO for acceptance of the residential mixed refuse it collects for disposal for a per ton tipping fee.

In addition to tipping fees, Baltimore City receives revenue from BRESKO that include a host fee for this regional facility, site lease payments, and property taxes. In the past, it also received

¹ <https://www.epa.gov/smm/energy-recovery-combustion-municipal-solid-waste-msw>

² 156,885 tons of trash was incinerated at BRESKO and 149,635 tons were landfilled in CY 2017.

electricity SWAP payments. Combusting the majority of the City's mixed refuse into ash significantly reduces the amount of landfill space needed for disposal, saving landfill space; combustion of waste results in approximately a 90% reduction in volume. Under the Maryland Recycling Act, Baltimore City receives a 5% credit toward its State-mandated 35% recycling goal of mainstream waste, due to its use of a waste-to-energy facility.

Bureau of the Budget and Management Research: Baseline Projections

The Bureau of the Budget and Management Research (BBMR) has prepared the following baseline projections based on the City's current solid waste disposal arrangement with BRESKO and QRL, and the City's current planned expansion of the existing QRL landfill, which, per DPW estimates, will reach capacity in 2026. The table below shows a projection of General Fund solid waste disposal revenues and expenditures over the next six years, which would put the City on schedule for its planned expansion of QRL. These figures assume that the City continues with its current disposal model utilizing both BRESKO and QRL, and that the Wheelabrator contract is extended at an annual 2.5% cost increase beyond its 2021 expiration date:

SOLID WASTE DISPOSAL	FY20	FY21	FY22	FY23	FY24	FY25	FY26
	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>
<u>REVENUES</u>							
<i>BRESKO</i>							
Real Property Tax	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Personal Property Tax	1.7	1.7	1.7	1.8	1.8	1.8	1.8
Lease Payments	2.1	2.2	2.3	2.3	2.4	2.4	2.5
Solid Waste Surcharge	2.6	2.7	2.7	2.8	2.9	2.9	3.0
Host Community Fee	1.0	1.0	1.1	1.1	1.1	1.1	1.2
Ash Disposal	<u>2.4</u>	<u>2.5</u>	<u>2.5</u>	<u>2.6</u>	<u>2.6</u>	<u>2.7</u>	<u>2.8</u>
<i>Sub-Total</i>	<i>10.1</i>	<i>10.4</i>	<i>10.6</i>	<i>10.8</i>	<i>11.1</i>	<i>11.3</i>	<i>11.6</i>
<i>Landfill</i>							
Tipping Fee Revenue	<u>4.6</u>	<u>4.7</u>	<u>4.8</u>	<u>5.0</u>	<u>5.1</u>	<u>5.2</u>	<u>5.3</u>
<i>Sub-Total</i>	<i>4.6</i>	<i>4.7</i>	<i>4.8</i>	<i>5.0</i>	<i>5.1</i>	<i>5.2</i>	<i>5.3</i>
Total	14.7	15.1	15.4	15.8	16.2	16.5	16.9
<u>EXPENDITURES</u>							
<i>Waste Disposal Operations</i>							
Northwest Transfer Station	1.7	1.7	1.8	1.8	1.9	1.9	2.0
Wheelabrator Tipping Fee	8.9	9.1	9.4	9.6	9.8	10.1	10.3
Recycling	2.0	2.1	2.1	2.2	2.2	2.3	2.3
Landfill Operation	<u>5.8</u>	<u>5.9</u>	<u>6.1</u>	<u>6.2</u>	<u>6.4</u>	<u>6.6</u>	<u>6.7</u>
<i>Sub-Total</i>	<i>18.4</i>	<i>18.9</i>	<i>19.3</i>	<i>19.8</i>	<i>20.3</i>	<i>20.8</i>	<i>21.3</i>
<i>Capital Development</i>							
Contribution to Landfill Development	8.5	8.5	8.5	8.5	8.5	8.5	8.5
Contribution to Landfill Closure	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>	<u>0.9</u>
<i>Sub-Total</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>	<i>9.4</i>
Total	27.8	28.3	28.7	29.2	29.7	30.2	30.7

Bureau of the Budget and Management Research: Financial Impact Projections

If Council Bill 18-0306 is enacted, significant changes to the BRESKO facility would be necessary to meet the newly required emissions levels. Wheelabrator would ultimately need to make a business decision on whether to invest in the required improvements or to shut down the facility completely. If BRESKO were to shut down immediately, the City would need to find an alternative disposal facility.

The Bureau of the Budget and Management Research has prepared the following financial impact projections based on the assumption that the City would need to choose between two immediate options for solid waste disposal: landfilling at QRL, or transporting waste out of the city (or some combination of both).

BBMR Scenario #1: Landfill

The City could choose to utilize the QRL landfill as its primary disposal location. But, the existing QRL landfill and the expanded landfill site would experience shorter lifetimes due to the higher volume of solid waste. In order to maximize space at the landfill for City usage, private haulers and small haulers would be prohibited from QRL, costing the City an estimated \$4.7 million of revenue per year.

Even after maximizing space for City usage, DPW estimates that QRL's remaining capacity would be reduced with a required opening in Fiscal 2024. Longer-term, the expected capacity of the newly developed landfill site would be reduced from approximately thirty years to twenty years. In turn, contributions to the Landfill Trust Fund would need to accelerate by \$6.4 million per year through Fiscal 2024 (versus baseline of \$8.5 million), and then by \$3 million ongoing to prepare the City for the shorter landfill life-cycle.

Operationally, landfill operations would need to be expanded immediately to handle the additional waste going to QRL. Also, the City should expect higher costs for overtime, vehicles, and fuel to account for the longer transit time to QRL. In the current operation, some drivers take waste directly to BRESKO which is more centrally located and more cost-effective.

Finally, the City would lose the revenue generated from BRESKO, which includes real and personal property taxes, lease payments, surcharges, and ash disposal.

The table below shows the potential impact. The cost to the General Fund of this scenario is **\$98.6 million** over seven years, and a recurring cost going forward of **\$12.8 million annually**:

SCENARIO #1: LANDFILL	FY20	FY21	FY22	FY23	FY24	FY25	FY26
General Fund Impact	Proj'd	Proj'd	Proj'd	Proj'd	Proj'd	Proj'd	Proj'd
Lost tipping fee revenue	(4.6)	(4.7)	(4.8)	(5.0)	(5.1)	(5.2)	(5.3)
Additional Landfill Trust contributions	(6.4)	(6.4)	(6.4)	(6.4)	(3.0)	(3.0)	(3.0)
Cost of expanded landfill operations	(1.9)	(2.0)	(2.0)	(2.1)	(2.1)	(2.1)	(2.2)
Additional collection costs	(1.0)	(1.0)	(1.1)	(1.1)	(1.1)	(1.1)	(1.2)
Lost BRESKO revenue	(9.9)	(10.2)	(10.4)	(10.6)	(10.9)	(11.1)	(11.4)
Savings from BRESKO payments	<u>8.9</u>	<u>9.1</u>	<u>9.4</u>	<u>9.6</u>	<u>9.8</u>	<u>10.1</u>	<u>10.3</u>
Total Impact	(14.9)	(15.2)	(15.3)	(15.5)	(12.3)	(12.5)	(12.8)

BBMR Scenario #2: Transporting Waste out of Baltimore City

The City could choose to truck its waste outside of the City (or region). The existing QRL landfill could be phased out as it nears capacity and only operated at reduced levels to handle smaller volumes of waste disposal. But, this option would require additional costs for transportation, tipping fees to external landfills, and new infrastructure investments to handle the transfer of waste between collection and ultimate disposal.

DPW researched nearby landfills for potential disposal options. Tipping fees ranged from \$72 per ton in Harford County to \$100 per ton in Baltimore County. It is unclear if these landfills would have the capacity or desire to accept large volumes of solid waste from Baltimore. Realistically, the City might need to look further for disposal options. As an example, transit costs for shipping to Pennsylvania are estimated at \$30 per ton plus a disposal fee of \$18.50, for a total of \$48.50 per ton. Currently, the City sends 156,000 tons to BRESKO and 62,000 tons to QRL. Shipping all 218,000 tons of City-collected waste to Pennsylvania would cost \$10.5 million annually.

Shipping waste for disposal out of Baltimore would also require additional infrastructure investments. Currently, some waste is held at Northwest Transfer Station (NWTS) before disposal, but NWTS is only permitted to manage 150,000 tons of material per year, which includes both solid waste and recyclable material. In order to hold and consolidate waste for eventual transit and disposal, an additional transfer station would be required. Estimated construction costs are \$10.1 million, and ongoing operations would cost \$2.2 million annually.

In this scenario, the City would also lose the revenue generated by BRESKO, which includes real and personal property taxes, lease payments, surcharges, and ash disposal.

The table below shows the potential impact. It assumes that the landfill remains available in the short-term and then is phased out when a new transfer facility is available to enable shipping in Fiscal 2023. The cost to the General Fund is estimated at **\$73.6 million** over six years, and a recurring cost going forward of **\$15.8 million annually**:

SCENARIO #2: SHIPPING	FY20	FY21	FY22	FY23	FY24	FY25	FY26
General Fund Impact	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>	<i>Proj'd</i>
Reduction in landfill operation	0.0	0.0	0.0	4.0	4.0	4.0	4.0
Lost tipping fee revenue	0.0	0.0	0.0	(5.0)	(5.1)	(5.2)	(5.3)
Lost BRESKO revenue	(9.9)	(10.2)	(10.4)	(10.6)	(10.9)	(11.1)	(11.4)
Savings from BRESKO payments	8.9	9.1	9.4	9.6	9.8	10.1	10.3
Cost of new transfer station	(3.4)	(3.4)	(3.4)	0.0	0.0	0.0	0.0
Cost of new transfer station operations	0.0	0.0	0.0	(2.2)	(2.3)	(2.3)	(2.4)
Cost to ship waste	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>(10.2)</u>	<u>(10.5)</u>	<u>(10.7)</u>	<u>(11.0)</u>
Total Impact	(4.4)	(4.5)	(4.5)	(14.4)	(14.8)	(15.3)	(15.8)

Department of Public Works Operational Analysis

1. Current DPW Plans

1.1. Long-Term Solid Waste Master Plan

DPW is currently in the early stages of a [Long-Term Solid Waste Master Planning process](#). The consultant's work will include stakeholder engagement, waste and recycling characterization studies, a comprehensive evaluation of the existing system, benchmarking with other jurisdictions, and research on best practices and successes for reducing waste generation and increasing diversion and recycling rates. The compilation of this data and feedback will be utilized to develop a set of recommendations for the City and public for improving and increasing waste diversion and recycling, as well as managing what's left in a sustainable and cost-conscious manner. This will be formalized in a Less Waste, Better Baltimore Plan, which will be finalized and presented to DPW. This plan will guide the Department in its efforts to reduce waste production and to increase recycling and composting. It will also provide guidance regarding the options for disposing of the waste remaining after recycling and composting.

This fiscal note is limited to the scope of our current waste stream and disposal means. When completed, the master plan will show what additional programs, operations, and facilities are needed to increase the levels of waste reduction, composting, and recycling. There will be a cost to those priorities. This fiscal note does not go into the details of the costs of the programs and facilities that will be necessary for waste diversion because we do not want to bias the master planning process which will become our guide for future needs and plans.

1.2. Quarantine Road Landfill (QRL) Expansion

DPW is in the process of expanding the City-owned Quarantine Road Landfill, which is currently expected to reach full capacity by 2026. DPW plans to expand QRL onto the adjacent former Millennium Landfill (FML) and construct the first landfill cell by FY 2026 to ensure the City has a means to dispose waste (Table 1). The QRL expansion will add an additional 30 years of capacity to QRL at a new estimated cost of \$99.7 million. Previously, DPW estimated the QRL expansion would cost around \$85 million, but the new cost estimates include the installation of a leachate conveyance and the removal of a million cubic feet of dirt stockpiled on FML.

Preliminary Budget Costs for QRL Expansion

Phase/Component	Project Costs (\$)	Timeframe (Fiscal Year)
Geological and Hydrological Site Report	\$700,000	FY 2019
Design/Permitting/Bid Support	\$4,180,000	FY 2020 - FY 2024
Initial Expansion and Cell 1 Construction	\$51,509,120	FY 2024 - FY 2026
Phase 1 Total	\$56,389,120	
Landfill Cell 2 Construction	\$17,352,920	FY 2026 - FY 2027
Landfill Cell 3 Construction	\$17,352,290	FY 2027 - FY 2028
Landfill Cell 4 Construction	\$8,637,200	FY 2028 - FY 2029
Phase 2 Total	\$43,289,020	
Total	\$99,732,160	

2. Current Revenue and Expenditures**2.1. Current Revenue**

The Bureau of Solid Waste is funded through the City's General Fund, and the revenue generated goes back to the General Fund. In CY 2018, Solid Waste generated a total of \$16,820,646 from Quarantine Road Landfill tipping fees, Small Hauler Program payments, and BRESCO payments. The tipping fee at Quarantine Road Landfill is \$67.50 per ton for commercial vehicles, but \$60 per ton for City agency vehicles. In addition, the Small Hauler Program at both Quarantine Road Landfill and Northwest Transfer Station allows haulers that weigh less than 2,000 pounds to dispose waste for \$20 per ton. The City of Baltimore currently receives payments from BRESCO, as shown in the table below. In Calendar Year 2018, the City received \$9,146,698.50 from the combined payments.

CY 2018 BRESCO Payments to Baltimore City

Description	Cost
Host Community Fee (\$)	\$828,533
City Surcharge (\$)	\$2,747,397
Property Taxes (\$)	\$271,407
Personal Property Taxes (\$)	\$1,696,398
Site Lease Payments (\$)	\$1,760,562
Ash Disposal (\$)	\$2,513,332
Total BRESCO Payments	\$9,817,629

The total revenue generated in CY 17 to 18 by the Bureau of Solid Waste is provided in Table 2.

Bureau of Solid Waste Revenue Generated in CY17 and CY18

Description	CY 2017	CY 2018
Tipping Fee	\$7,194,360	\$5,981,615 ³
Small Hauler Program	\$610,278 ⁴	\$1,021,402
BRESCO Payments	\$8,475,768	\$9,817,629
Total	\$16,280,406	\$16,820,646

2.2. Current Expenditures

Expenses to maintain and operate the Bureau of Solid Waste (Bureau) for FY 2017 and 2018 are provided in the table below. These expenditures provide operational costs such as salaries, materials and supplies, and equipment for each service provided by the Bureau. The Bureau budgets for the following services:

- Solid Waste Administration
- Public Right-of-Way Cleaning, includes the Street and Alley Cleaning and the Mechanical Street Sweeping programs
- Vacant and/or Abandoned Property Cleaning and Boarding, includes the Rat Abatement Program
- Waste Removal and Recycling Collection Services
- Waste Re-Use and Disposal

³ Tipping Fees decreased in CY 2018 because the Northwest Transfer Station was closed for a few weeks in 2018 for facility upgrades

⁴ Small Hauler Program began in April 2017 which accounts for the low revenue generated in CY 2017

FY17 and FY18 Bureau of Solid Waste Expenditures

Description	FY 2017	FY 2018	Percent Change (%)
Solid Waste Administration	\$1,597,149.00	\$1,439,614.00	-9.86%
Public Right-of-Way Cleaning	\$21,205,984.00	\$22,233,366.00	4.84%
Vacant/Abandoned Property Cleaning and Boarding	\$8,242,964.00	\$11,240,584.00	36.37%
Waste Removal and Recycling Collection Services	\$29,137,592.00	\$29,693,420.00	1.91%
Waste Re-Use and Disposal	\$17,725,367.00	\$18,416,296.00	3.90%
<i>Total</i>	\$77,909,056.00	\$83,023,280.00	6.56%

2.2.1. Recycling Market's Impact on Waste Re-Use & Disposal Program Expenditures

The overall expenditure numbers indicate a year-to-year expense increase of 5% each year. Breaking down the waste and reuse disposal program expenditures in the table below, the cost to process the City's single-stream recycling has increased by 191.04% due to the decline in recyclable material demand and increase in contaminated materials. This increase in expenditure for recyclable materials accounts for over half of the overall expenditure increase in Waste Re-use and Disposal and indicates a scaling issue with the cost of recyclable material.

The recycling markets for various recyclable materials have always fluctuated from year to year depending on the demand for the materials or the cost differential between recycled materials and virgin materials. Due to those fluctuations, the cost or savings to recycle has also fluctuated. Recent events driven mostly by China's change in its recycling contamination policy has driven up the City's costs to recycle. Should American businesses step in to fill this void, it would be expected that the recycling markets would become more stable in the future.

***FY17 and FY 18 DPW Bureau of Solid Waste,
Waste Reuse and Disposal Program Expenditures***

Description	FY 2017	FY 2018	Percent Change (%)
Wheelabrator Disposal	\$8,071,172	\$8,541,613	5.83%
Single-Stream Recycling	\$313,355	\$911,973	191.04%
Landfill Operation	\$5,206,600	\$4,972,702	-4.49%
Landfill Closure and Development	\$2,426,121	\$2,479,495	2.20%
Northwest Transfer Station Operation	\$1,708,119	\$1,715,269	0.42%
Total	\$17,725,367.00	\$18,621,052.00	5.05%

3. Possible Impacts of BRESKO Closure

The City would have to decide what the most cost-effective and feasible option or options would be for redirecting its disposal of approximately 200,000 tons of trash per year in the short- and long-term. The City-owned Quarantine Road Landfill is currently projected to have capacity until 2026, but without the ability to use BRESKO, the increased volume of trash taken to the landfill could result in the landfill's early closure in 2024. The planned expansion of the landfill will likely not be ready to accept waste until 2026, so the City will need to find a location to bring its waste in the interim, even if other public or private waste reduction facilities are available and beginning to provide a means to reduce the tonnage of trash needing disposal. There is not currently a location or locations that have been confirmed to accept the waste in the scenario of the closure of BRESKO, however, based on the available cost data and operational realities, the City will incur significant operational cost impacts if waste has to be transported to neighboring jurisdictions and/or neighboring states.

3.1. Impacts on QRL

Under these scenarios, it would likely be necessary to preserve the landfill space for the waste DPW collects from households and small businesses, and the landfill would no longer be able to accommodate non-profit entities, small commercial haulers, individual residents, or other City agencies. This would result in loss in tipping fees and which could lead to a domino effect on those losing access to the landfill, including the possible increase in illegal dumping, which has a cost to clean. On average, other City agencies, private haulers, and small haulers haul about 75,638 tons of waste a year to the Quarantine Road Landfill. Based upon these averages, Bureau of Solid Waste will generate approximately \$4,379,594 per year from City agency, private hauler, and small hauler tipping fees.

Organizations	Average Tons per Year	Tipping Fee per Ton	Total per Year
Department of Transportation	21,203	\$60.00	\$1,272,180
Bureau of Water and Wastewater	25,954	\$67.50	\$1,751,895
Other City Agencies	5,319	\$60.00	\$319,110
Private Haulers	12,067	\$67.50	\$814,489
Small Haulers	11,096	\$20.00	\$221,920
Total	75,638		\$4,379,594

Waste in Tons Disposed at Quarantine Road Landfill

Category	CY 2016	CY 2017	Average Tons per Year
Baltimore City, DPW	60,752	62,677	61,715
Baltimore City, Other Agencies	46,742	58,209	52,476
<i>Department of Transportation</i>	<i>10,864</i>	<i>31,542</i>	<i>21,203</i>
<i>DPW, Bureau of Water and Wastewater</i>	<i>30,368</i>	<i>21,540</i>	<i>25,954</i>
<i>Other City Agencies</i>	<i>5,510</i>	<i>5,127</i>	<i>5,319</i>
Privately Collected Waste	20,923	25,401	23,162
<i>Private Haulers</i>	<i>7,993</i>	<i>16,140</i>	<i>12,067</i>
<i>Small Haulers</i>	<i>12,930</i>	<i>9,262</i>	<i>11,096</i>
Non-profits	3,340	1,207	2,274
BRESCO Ash	149,143	140,289	144,716
Cover Dirt	73,875	192,896	133,386
Total	354,775	480,679	417,728

Quarantine Road Landfill, the City's only landfill, consumes approximately 908.5 cubic yards per day of daily airspace⁵. Based upon this disposal rate, Quarantine Road Landfill (QRL) will have capacity until CY 2026. However, QRL's current disposal rate is low due to the City's ability to decrease mixed-waste refuse by approximately 90% through waste-to-energy combustion.⁶ For example, about 140,289 tons of ash were disposed at the Quarantine Road Landfill in CY 2017⁷,

⁵ 2018 Quarantine Road Landfill Volume Report

⁶ 10-Year Solid Waste Management Plan, page 44.

⁷ Table 4: 140,289 tons of BRESCO ash was landfilled at Quarantine Road Landfill in CY 2017

but the landfill's compaction rate remains low at about 1.26 tons per cubic yard.⁸

Waste in Tons Disposed at BRESKO

Category	CY 2016	CY 2017	Average
Baltimore City, DPW	159,141	156,887	158,014
Baltimore City, Privately Collected	224,843	221,656	223,250
Other Jurisdictions	318,036	327,163	322,600
Total	702,020	705,705	703,863

Upon closure of BRESKO, the Quarantine Road Landfill will have to accept the waste originally sent to BRESKO. In CY 2017, DPW sent approximately 156,887 tons to BRESKO for waste-to-energy consumption⁹. If QRL must accept an additional average of 158,014 tons of waste per year, then the landfill's compaction rate could decrease by half due to the amount of airspace mixed-waste refuse has. A lower compaction rate could result in Quarantine Road Landfill reaching full capacity as early as CY 2024.

3.2. Infrastructure and Operational Needs for Alternative Scenarios

3.2.1. Additional Transfer Station

The costs of fuel and staff time will vary based on the length of each trip to a neighboring landfill. Currently, for example, the trailers travel from the Northwest Transfer Station to Wheelabrator, which is 13 to 17 miles round-trip, depending on the route taken. If the trucks traveled to landfill in one of the neighboring jurisdictions instead, they would be traveling 60 to 80 miles round-trip. This would require a second, large transfer station, new routing, and additional tractor trailers. The City could also choose to hire a private company to truck its waste to a Pennsylvania landfill, if they were willing to accept all or part of the tonnage it. This option would also require a second large transfer station and new routes.

The Northwest Transfer Station (NWTs) is permitted by the Maryland Department of Environment (MDE) to process up to 150,000 tons of material per year¹⁰, but the waste generated in every scenario exceeds NWTs' maximum capacity. The City will need to build a second transfer station to process the remaining waste generated by the City.

An additional transfer station, to be located on the east side of the city, will cost approximately \$10.2 million to design and construct. The transfer still will also need to go through a permitting process with the Maryland Department of the Environment (MDE).

⁸ 2018 Quarantine Road Landfill Volume Report

⁹ Table 5: The City sent 156,887 tons of waste to BRESKO for waste-to-energy consumption

¹⁰ State of Maryland, Refuse Disposal Permit no. 2015-WTS-0038, Part II.C.1.

Estimated Cost to Construct and Operate an Additional Transfer Station

Component	Cost
Design	\$80,000
Construction Estimate	\$8,000,000
Post-Award Service	\$800,000
Change Order	800,000
Inspection	\$320,000
Administration	\$160,000
Total	\$10,160,000

An estimated \$2.5 million per year is required to operate the additional transfer station. These operational costs will include hiring 40 new employees to work in two shifts throughout the work day. The transfer station would continue after the QRL expansion is completed with the same operating cost of \$2 million per year.

3.1.2. Route Optimization

Currently, City collection vehicles with routes in the vicinity of BRESCO drive directly to BRESCO to dispose their waste and then return to their routes. If waste is not disposed at BRESCO, then the City will need to hire a consultant to design new collection routes for the Bureau of Solid Waste vehicles which would cost between \$175,000 and \$225,000, depending on the scope of the project. It is imperative that the collection routes optimize the following:

- Minimal miles driven
- Maximization of stops and lifts per hour
- Balanced workloads across the week
- Minimal overtime
- Improved safety

3.2.1. Alternative Waste Disposal Options**3.2.1.1. Out-of-State Disposal**

Based upon existing contract rates, the average tipping fee is \$18.50 per ton and the average transportation cost is \$30.00 per ton to dispose waste in Pennsylvania. However, there is no guarantee that these landfills will or can accept the City's waste. Many transfer stations and landfills are already accepting the maximum tonnage allowed per day and these facilities have the right to refuse disposal if their facility is unable to clear the tipping floor or cover the waste on the active face by the end of the day.

Estimated Annual Cost to Dispose Waste Out-of-State Landfill

	Tons	Average Rate per Tons	Estimated Annual Cost
Disposal Fee	219,729	\$18.50	\$4,064,987
Transportation Fee	219,729	\$30.00	\$6,591,855
Total			\$10,656,832

3.2.1.2. Disposal at Nearby Jurisdiction

The municipal landfills in Baltimore County, Anne Arundel County, and Harford County are the nearest options for alternative disposal sites if BRESO were to close. However, this would significantly impact the effective lifetime of those landfills so it is unknown whether those counties would be amenable to accepting large quantities of waste and at what cost. BRESO is utilized by Baltimore County and a number of private haulers, so if it were to close, those entities would also need to find alternative disposal sites. Therefore, it is likely that landfills would increase their tipping fees in the face of high demand and low supply.

Tipping fees (the amount charged per ton to accept garbage at a disposal site) vary, but at the three landfills mentioned they are between \$72 and \$100 per ton. It is possible that an arrangement could be made to lower those costs. However, if these fees were to remain as listed, the annual tipping fees for the City would range between \$15.8 million and \$22 million. DPW Bureau of Solid Waste does not currently pay tipping fees for waste disposed at the City-owned landfill and it pays \$54.95 per ton for the waste disposed at BRESO. Other City agencies that utilize QRL pay the standard tipping fee of \$60 per ton.

Tipping Fees for Nearby Jurisdictions

Jurisdictions	Tipping fee per Ton	Total Waste (tons)	Estimated Annual Cost¹¹
Baltimore County	\$100.00 ¹²	219,729	\$ 21,972,900
Anne Arundel County	\$75.00 ¹³	219,729	\$ 16,479,638
Harford County	\$72.00 ¹⁴	219,729	\$ 15,820,452

¹¹ The estimated annual cost does not include increased operational costs such as, fuel costs, additional CDL drivers, and equipment like tractor trailers and an additional transfer station.

¹² https://www.baltimorecountymd.gov/Agencies/publicworks/solid_waste/trash_disposal_faq.html

¹³ <https://www.aacounty.org/departments/public-works/waste-management/fee-schedule/index.html>

¹⁴ <https://www.harfordcountymd.gov/1858/HWDC-Disposal-Fees-and-Information>

Average Annual Cost	\$18,090,980
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3.2.2. Third-Party Haulers for City Agencies

With Quarantine Road Landfill limited to the Bureau of Solid Waste operations, other City agencies will need to procure their own waste disposal contract. The cost to procure a disposal contract is unknown, but collectively the other City agencies will need to dispose an average of approximately 52,000 tons per year.

3.3. Other Impacts

3.3.1. Illegal Dumping

Currently, the City struggles with illegal dumping. In FY18, the Department spent \$22,666,770 on right of way cleaning services, which includes street and alley cleaning, mechanical street sweeping, marine operations, graffiti removal, and cleaning of business districts. If BRESKO were to close, this would increase the likelihood of illegal dumping since the only collection sites would be NWTS and QRL.

3.3.2. Steam Production

BRESKO produces steam for the City's central heating grid, a system that is operated by Veolia. It also generates electricity for sale to the electric grid, which is operated by PJM. Veolia uses BRESKO to ensure reliability of the steam supply, as BRESKO provides a minimum amount of steam regardless of how favorable the market prices are. For example, during the many subsequent days of below-freezing temperatures in January of 2018, BGE curtailed gas supply, so Veolia switched their boilers to fuel oil and relied on BRESKO. Many downtown businesses depend on the supply of steam generated at BRESKO.

Conclusion

Currently, the majority of waste collected within Baltimore City is sent to BRESKO for disposal. If this facility were no longer an option, then the City would need to find an alternative waste disposal method due to the limited capacity available at the City-owned landfill. The landfill is currently projected to have capacity until 2026, but the closure of BRESKO will increase landfill usage by possibly 100% a year.

The City would lose approximately \$10 million a year in payments from BRESKO and \$4.5-5 million in tipping fee revenue. There would be necessary expenditures of at least \$10 million for a new transfer station, operating expenses of approximately \$2.2 million a year for the transfer station, increased operating costs at the landfill, and transportation and tipping fees to an outside landfill, which could range from \$10-22 million depending on which landfill is willing and able to accept the waste and how much they would charge.

Exhibit G



Maryland

Department of the Environment

Larry Hogan
Governor

Boyd Rutherford
Lieutenant Governor

Ben Grumbles
Secretary

March 3, 2017

CERTIFIED MAIL

Return Receipt Requested

Mr. David Jones, Plant Manager
Wheelabrator Baltimore, L.P.
1801 Annapolis Road
Baltimore MD 21230

Dear Mr. Jones:

Enclosed herewith is the State of Maryland Refuse Disposal Permit No. 2016-WTE-0030, which is being renewed in accordance with your application of September 14, 2016. This permit authorizes the continued operation of the Southwest Resource Recovery Facility located at 1801 Annapolis Road in Baltimore City. This permit supersedes and replaces Refuse Disposal Permit No. 2011-WTE-0030.

Please note that this permit is subject to the enclosed terms and conditions. No written response from the permittee regarding this permit ten (10) days following receipt of this letter constitutes acceptance of the terms and conditions contained therein.

For further information, please contact Ms. Martha Hynson, Chief, Solid Waste Operations Division, at (410) 537-3315.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ed M. Dexter".

Edward M. Dexter, Administrator
Solid Waste Program

EMD:AM:am

Enclosure

cc: Ms. Hilary Miller
Mr. Brian Coblentz (w/encl.)

MARYLAND DEPARTMENT OF THE ENVIRONMENT



Larry Hogan
Governor

Land Management Administration Solid Waste Program

1800 Washington Boulevard, Suite 605, Baltimore, Maryland 21230-1719



Ben Grumbles
Secretary

Refuse Disposal Permit **No. 2016-WTE-0030**

ISSUE DATE: March 3, 2017

EXPIRATION DATE: March 2, 2022

Issued to: Wheelabrator Baltimore, L.P.

Authorizing: the continued operation of the Southwest Resource Recovery Facility

Located at: 1801 Annapolis Road, Baltimore City, Maryland 21230

This permit is renewed pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland, and regulations promulgated thereunder, and is subject to the attached terms and conditions, and compliance with all applicable laws and regulations.

A blue ink signature of Edward M. Dexter.

Edward M. Dexter, Administrator
Solid Waste Program

A blue ink signature of Hilary Miller.

Hilary Miller, Director
Land Management Administration

REFUSE DISPOSAL PERMIT

Permit No. 2016-WTE-0030

Issuance Date: March 3, 2017

Expiration Date: March 2, 2022

**STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard
Baltimore, Maryland 21230-1719**

This Refuse Disposal Permit is renewed pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland, by the Maryland Department of the Environment, Land Management Administration (the "Department"), to:

**Wheelabrator Baltimore, L.P. (the "permittee")
1801 Annapolis Road
Baltimore MD 21230**

for the continued operation of the

Southwest Resource Recovery Facility

encompassing a

15-acre site

located at

**1801 Annapolis Road
Baltimore City, Maryland**

This permit is granted in accordance with the referenced documents in Part I, and subject to the terms and conditions specified in Parts II, III, IV, and V of this Permit as follows:

- Part I:** Referenced Materials - permit application, plans and specifications and other pertinent documents submitted to the Department.
- Part II:** Facility Specific Conditions - conditions which amend all other permit conditions applicable to this facility should any discrepancies or conflicts exist.
- Part III:** General Conditions - conditions which are generally applicable to solid waste acceptance facilities similar to this facility.
- Part IV:** Scrap Tire Conditions - conditions which are generally applicable to processing of scrap tires.
- Part V:** Standard Conditions - conditions which are generally applicable to all solid waste acceptance facilities.

Part I: Referenced Documents:

1. An updated Waste Control Plan, dated January 2017 and received on January 12, 2017.
2. A Refuse Disposal Permit Renewal Application, dated September 8, 2016 and received on September 14, 2016.
3. A request to install a new enclosed ferrous metal conveyor, dated October 22, 2014 and received on October 24, 2014.
4. A request to enhance the existing metal recovery system for ferrous metal and add the recovery of non-ferrous metal, dated February 2014 and received on February 28, 2014.
5. As-built drawings including Sheets No. 01-32-231 through 01-32-235, 01-32-411, 02-48-001, 01-32-105, 09-27-1-100, 01-27-102, 3802-1-002, 03-49-001 through 03-49-010, 05-47-001A through 05-47-001C, 06-48-002A through 06-48-003, 09-27-M201, 09-27-M202, 09-27-M206, 09-27-M207, 06-27-101, 06-27-102, 06-27-106, 05-27-104, 07-47-001 through 07-47-07, 09-26-3-001, 09-26-3-002, 09-27-1-100 through 09-27-1-102, 10-48-001, 10-48-002, 10-49-003, 10-49-004, and 11-47-001, received on January 28, 2011 and August 19, 2011, respectively.
6. A Refuse Disposal Permit Renewal Application, dated January 16, 2011 and received on January 19, 2011.
7. A revised Waste Control Plan, dated April 28, 2010 and received on April 29, 2010.
8. A corporate relationship document from Wheelabrator Technologies, Inc. regarding the name change from Baltimore Refuse Energy System Company (BRESKO) to Wheelabrator Baltimore, L.P., dated November 4, 2005 and received on November 7, 2005.
9. A Refuse Disposal Permit Renewal Application, dated June 20, 2005 and received on June 22, 2005.
10. A Scrap Tire Solid Waste Acceptance Facility Approval Application, dated April 22, 2005 and received on April 27, 2005.
11. A letter from BRESKO explaining the organizational relationship between BRESKO and Waste Management, dated September 28, 2000 and received on September 27, 2000.
12. A Refuse Disposal Permit Renewal Application submitted by BRESKO, dated June 9, 2000 and received on June 14, 2000.
13. A letter requesting to abandon Monitoring Well No. 3 for the planned location of the lime preparation building, dated June 21, 1999 and received on June 28, 1999.
14. A letter and drawing Sheet No. 1 of 1 submitted by BRESKO requesting to modify the metal recovery system, dated May 12, 1998 and received on May 15, 1998.

15. A letter requesting renewal of the Refuse Disposal Permit submitted by BRESCO, dated January 10, 1995.
16. A Contingency and Maintenance Plan for BRESCO, received on November 18, 1987.
17. A Groundwater Monitoring Wells Location Plan, dated May 18, 1984, and specifications dated May 11, 1984, prepared by Rust International Corporation.
18. A letter dated February 10, 1983 and a Refuse Disposal Permit Application submitted by Piper & Marbury on behalf of BRESCO, requesting a name change from Northeast Maryland Waste Disposal Authority to BRESCO.
19. A set of four zoning maps of the site and the surrounding area, received on July 17, 1981.
20. A Refuse Disposal Permit Application for Southwest Resource Recovery Facility, developed by the Northeast Maryland Waste Disposal Authority, dated July 7, 1981.

Part II: Facility Specific Conditions:

A. Acceptable Wastes:

The permittee may only accept and incinerate solid waste as specified in this facility's Refuse Disposal Permit Application and its supporting documents identified in Part I of this permit. The acceptable solid waste includes:

1. Residential;
2. Commercial;
3. Industrial;
4. Litter; and
5. Scrap tires.

The permittee is also authorized to accept off specification, expired or unused non-hazardous pharmaceutical wastes, and regulated garbage as defined by the United States Department of Agriculture, Code of Federal Regulations of Certain Garbage, 7 CFR 330.400 and 9 CFR 94.5.

B. Hours of Construction and Operation:

1. The permittee may operate this facility 24 hours per day, seven days a week.
2. A statement of the days and hours of operation shall be posted at the entrance to the facility.
3. Emergency conditions or unusual circumstances shall be reported to the Department at (410) 537-3315 during normal business hours, or via the Department's Emergency Network at (866) 633-4686 at other times.

C. Capacity:

1. The maximum amount of solid waste accepted at this facility shall not exceed 850,000 tons per year.
2. The Department reserves the right to restrict the volume of material accepted at this facility upon a determination that nuisance conditions, harborage of disease vectors, fugitive dust, blowing litter, odors, or other conditions which are prejudicial to quality of the environment or the public health, safety or comfort have occurred or are likely to occur as a result of this practice.

D. Bond:

As a condition for obtaining and maintaining this permit, the permittee shall maintain evidence of a surety bond or equivalent security payable to Baltimore City in the amount of \$1,633,500.00. The amount of the surety bond may be reviewed and approved by the Department whenever the permit is renewed.

E. Processing of Scrap Tires:

Scrap tires shall be mixed with solid waste at the facility. There shall be no accumulation (stockpiling) of scrap tires at the facility.

F. Plans and Specifications:

Approved plans and specifications under Part I and Part II will satisfy the requirements under Parts III, IV and V of the permit conditions. The approved plans and specifications override the requirements under these conditions to the extent that they do not conflict with applicable laws or regulations unless a variance has been granted under the Code of Maryland Regulations 26.04.07.26. However, these conditions do remain valid and enforceable.

G. Mercury Diversion Plan:

1. The permittee shall submit a Mercury Diversion Plan (MDP) to the Department for review and approval for all service areas of the facility within 180 days from the issuance of this permit. The MDP shall establish means for diverting mercury-containing items from the solid waste stream that is to be subsequently combusted at this facility through identification, separation, collection and recycling or proper disposal of mercury-bearing products contained in the solid waste stream. The MDP shall also include proposed measures to determine the effectiveness of the MDP in removing mercury-containing items following implementation. The MDP shall, at a minimum, include the following four elements:
 - a. An education/outreach program for citizens, businesses and local governments;
 - b. A collection program for unused mercury and mercury-containing items;
 - c. A recovery/recycling program for mercury-containing devices; and
 - d. A proposed schedule for implementation of the MDP.
2. The permittee shall implement the MDP in the intended service area as approved or amended by the Department within 180 days of the Department's approval of the MDP. The permittee shall submit a progress report to the Department annually by December 31 of each year the permit is in effect, documenting the effectiveness of the MDP, and making recommendations, as appropriate, to enhance the effectiveness of the MDP.
3. Any modifications to the MDP must be submitted to the Department for approval. The permittee shall implement any modifications as approved by the Department.

Part III: General Conditions (Applicable To Municipal Solid Waste Incinerators):

A. Waste Acceptance Requirements:

1. The following waste materials are specifically prohibited from being accepted at this facility, regardless of their origin or type:
 - a. Controlled hazardous substances, as defined in Code of Maryland Regulations (COMAR) 26.13.01.03B(10-1);
 - b. Special medical waste, as defined in COMAR 26.13.11.02B(11);
 - c. Radioactive Hazardous Substance (RHS), as defined in COMAR 26.15.02.02 is unacceptable if the exposure rate of radiation exceeds the limit set by this Department's Air and Radiation Management Administration (ARMA). RHS that exceeds the allowable limits shall be handled in accordance with a specified procedure approved by the ARMA;
 - d. Unless otherwise authorized by the Department, bulk liquid such as those delivered by tanker truck, in containers of 55 gallons (drums) or more, or any other liquid waste that would cause the facility to violate an air or water standard, threaten public health or safety, or which would cause damage to or adversely affect the operation of the facility. This prohibition does not apply to small quantities of household liquid waste such as partially full food containers or household products which may occur in the solid waste stream;
 - e. Automobiles;
 - f. Animal carcasses resulting from medical activities or destruction of diseased animals unless so ordered by the local Health Officer;
 - g. Sewage sludge, processed sewage sludge, septage, sewage scavenger waste or any other product containing these materials unless otherwise authorized by the Department;
 - h. Bulk chemicals or pharmaceutical waste unless authorized by the ARMA;
 - i. Petroleum and chemical cleanup material, unless:
 - i. The source, production process, and chemical characteristics of the spilled substance are adequately known;
 - ii. The spilled material is not a controlled hazardous substance as defined in COMAR 26.13.02;

- iii. The spilled material is not likely to adversely affect the incinerator;
 - iv. The spilled substance is contained in an absorbent material of sufficient excess volume that the material disposed at the incinerator does not exhibit free liquids as defined in General Condition A.1.d; and
 - v. Authorized by the Department.
- j. Truckloads of separately collected yard waste for final disposal, unless the permittee provides for the composting or mulching of the yard waste;
 - k. Scrap tires, unless the Department authorizes the acceptance and processing of scrap tires as required in COMAR 26.04.08;
 - l. Compressed gas cylinders not including cylinders from households whose length does not exceed 12 inches;
 - m. Industrial waste as defined in COMAR 26.08.01.01B(40)(a), i.e. bulk sludge, chemical solids, or by-products, unless otherwise authorized by the Department; and
 - n. Bulky material such as white goods, refrigerators, and items which will not fit in the combustion chamber or material handling systems.
2. The Department upon written request by the permittee may amend the list in Part III.A.1. If the Department denies the applicant's request or unilaterally determines to limit or exclude a waste stream from being disposed of at the incinerator the applicant will be notified of the Department's decision and will be provided an opportunity for a hearing in accordance with the Administrative Procedure Act.

B. Buildings:

Activities involving the unloading, separation, reduction, or alteration of solid waste shall be conducted in an enclosed building.

C. Solid Waste Handling:

- 1. Solid waste unloading shall be restricted to the refuse unloading/tipping areas in such a manner that waste may be monitored easily and handled readily with available equipment.

2. Dispersion of dust and odors shall be controlled. Moreover, the refuse unloading/tipping areas shall be maintained in a sanitary condition, including washing and cleaning as is necessary to control nuisance odors off-site.
3. The facility shall be maintained in a clean and sanitary condition. The following conditions are required:
 - a. Plumbing, sanitary facilities, and wastewater disposal devices shall be maintained;
 - b. Floors shall be well drained and free from standing water;
 - c. Solid waste not actually being processed shall be confined to the unloading area, which shall be maintained free of nuisances;
 - d. Accumulation of solid waste shall be controlled in a manner as to minimize odors and prevent infestation by insects, rodents, or other vectors;
 - e. Areas adjacent to the building shall be free of litter and standing water; and
 - f. Grass shall be neatly trimmed.

D. Incinerator Ash Testing and Disposal:

1. The permittee shall submit an Ash Sampling and Analysis Plan to the Department for review and approval within 90 days of issuance of this permit. The Plan must address the parameters to be sampled, the sampling frequency, the sample collection, sample preservation, chain of custody, and analytical protocols that will be used to obtain representative samples of the ash residue. The ash shall be tested for leaching potential using the Toxicity Characteristic Leaching Procedure (TCLP), Test Method 1311, which is published in the U.S. Environmental Protection Agency (EPA) Publication SW-846. Proposed changes to sampling equipment or procedures must be submitted to the Department for review and approval.
2. Within 30 days of initial operation of the facility, an initial testing and evaluation of the waste characteristics of the ash as it exits the combustion building following the combustion and air pollution control processes shall be determined in accordance with the most recent edition of the "Guidance for the Sampling and Analysis of Municipal Waste Combustion Ash For The Toxicity Characteristic", U.S. EPA Publication No. EPA530-R-95-036, using the TCLP. The sample results shall be submitted to the Department within 30 days of the sample date.
3. Should the facility be modified or a change made to processes which could reasonably be expected to change the characteristics of the ash generated by the

facility, the permittee shall re-characterize the ash in accordance with the most recent edition of the "Guidance for the Sampling and Analysis of Municipal Waste Combustion Ash For The Toxicity Characteristic", U.S. EPA Publication No. EPA530-R-95-036, using the TCLP. The sample results shall be submitted to the Department within 30 days of the sample date.

4. The permittee shall sample both the bottom ash and fly ash as it exits the combustion building following the combustion and air pollution control processes. The ash shall be sampled on a quarterly basis for the first two years of the facility's operations and on a semi-annual basis thereafter for the life of the permit, in accordance with the Ash Sampling and Analysis Plan approved by the Department. If the bottom ash and the fly ash are combined prior to exit from the combustion building, only the combined ash shall be sampled. The quarterly ash testing results shall be submitted to the Department by March 31, June 30, September 30 and December 31, and the semi-annual ash testing results by June 30 and December 31, of each year, unless an alternate schedule is included in the Ash Sampling and Analysis Plan and approved by the Department.
5. Facilities that produce less than 1000 tons of ash per year shall sample both the bottom ash and the fly ash on an annual basis for the life of the permit, in accordance with the Ash Sampling and Analysis Plan approved by the Department. If the bottom ash and the fly ash are combined prior to disposal, only the combined ash shall be sampled. The ash testing results shall be submitted to the Department by December 31 of each year, unless an alternate schedule is included in the Ash Sampling and Analysis Plan and approved by the Department.
6. Ash and non-combustible material from incineration shall be sampled and analyzed quarterly to determine the free liquid content of the ash. The free liquid content shall be determined by the EPA Method 9095 Paint Filter Liquids Test as outlined in the EPA Publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods".
7. Ash and non-combustible material from incineration shall be stored in the designated ash containers and in the leak-proof dumpsters, and shall be transported off-site to permitted facilities for disposal as frequently as is necessary to maintain capacity for additional ash storage. All dumpsters containing ash and post combustion non-combustible material shall be stored on the property and shall be covered, leak-proof, and secured in a manner so as to eliminate the potential of contaminating the waters and land of the State.
8. The permittee may dispose of the incinerator ash, non-combustibles and other residual solid wastes if evaluated to be non-hazardous and free of liquid at permitted municipal landfills, which are in compliance with the current design standards for municipal landfills.

9. The permittee shall transport the ash in covered trucks or covered containers in such a manner as to prevent leakage of liquid on public roads and release of material during transport.
10. The permittee may transport unburned solid waste to other permitted or authorized solid waste acceptance facilities. These wastes may be stored on the tipping floor during the receiving operations as specified in this permit.
11. The required annual report shall also include the quantity of unburned solid waste transported each month to a permitted or authorized solid waste acceptance facility. Total quantity of waste transported to each facility shall be included and reported in tons.

E. Short-Term Storage:

Short-term storage of solid waste is authorized in the refuse receiving area (tipping floor) for not more than 72 hours. Prolonged storage of more than 72 hours may be authorized under emergency conditions provided that the permittee obtains prior approval from the Department.

Part IV: Scrap Tire Conditions (Applicable to Processing of Scrap Tires):

A. Scrap Tire Processing and Operational Restrictions:

1. The permittee may process scrap tires as specified in this facility's Scrap Tire Solid Waste Acceptance Facility Approval and Application and its supporting documents.
2. The permittee may only receive scrap tires from a consumer or a scrap tire hauler licensed by the Department. A consumer or an individual who transports not more than five (5) scrap tires annually is exempt from the requirement to obtain a Scrap Tire Hauler License from the Department.
3. Scrap tires (or tire portions) may only be transported from this facility by a scrap tire hauler licensed by the Department.
4. Scrap tires (or tire portions) from this facility shall only be transported to licensed primary scrap tire collection facilities, licensed scrap tire recyclers, or approved Maryland or out-of-state facilities.
5. If the Department elects to require the delivery of scrap tires generated in this State to facilities designated under COMAR 26.04.08.03C by the Maryland Environmental Service (MES) as part of the scrap tire recycling system, scrap tires may not be transported from any location in Maryland to any place other than the designated facilities.
6. The permittee shall not operate the facility in a manner likely to:
 - a. Create a nuisance;
 - b. Be conducive to insect and rodent infestation;
 - c. Cause a discharge of any constituents derived from scrap tires into the air unless otherwise permitted by the Department;
 - d. Cause a discharge of any constituents derived from scrap tires into waters of this State unless otherwise permitted by the Department;
 - e. Impair the quality of the environment; or
 - f. Create other hazards to the public health, safety, or comfort as may be determined by the Department.

7. The permittee shall not construct this facility in a wetland, sinkhole, shoreland, ravine, 100-year flood plain, or any area where it may be subjected to immersion in water, unless authorized by this Department and the Maryland Department of Natural Resources.

B. Storage:

1. The permittee shall comply with all the Technical and Operational Standards to Store Scrap Tires under COMAR 26.04.08.17.
2. The permittee may not store scrap tires at this facility unless the permittee demonstrates to the satisfaction of the Department that, within ninety (90) calendar days of the time that the permittee stores the scrap tires, the scrap tires will be:
 - a. Returned to the marketplace;
 - b. Used as fuel in an approved resource recovery incinerator;
 - c. Used as a tire-derived fuel in an approved facility; or
 - d. Transferred to any facility within the scrap tire recycling system established by MES.

C. Fire Prevention:

1. The permittee shall not store combustibles in the area where scrap tires (or scrap tire portions), or products or raw materials derived from scrap tires, are contained, stockpiled, or processed.
2. The permittee shall not store potential ignition sources such as cutting, welding, and heating devices, open flames, etc., in the area where scrap tires (or scrap tires portions), or products or raw materials derived from scrap tires are contained or stockpiled.
3. The permittee shall comply with the Maryland Fire Prevention Code under COMAR 29.06, which incorporates by reference the BOCA National Fire Prevention Code and certain standards of the National Fire Protection Association (NFPA).
4. The permittee shall not conduct any routine operation involving the use of open flames, blowtorches, or highly flammable substances within fifty (50) feet of a scrap tire or its product piles.

D. Landfilling Prohibited:

1. Scrap tires shall not be disposed of in this State's landfills.
2. Scrap tires may be transported to a sanitary landfill if the landfill accepts scrap tires for purposes other than disposal and has received a Scrap Tire Facility License/Approval from the Department.
3. Scrap tires shall not be disposed of in an open dump.

E. Issuance of Receipts:

1. The permittee shall issue a written receipt to each scrap tire hauler upon receiving a load of scrap tires at this facility. The receipt shall specify the type and quantity, by number or weight, of scrap tires received.
2. The permittee shall issue a written record of destination to each scrap tire hauler upon removal of scrap tires from this facility. The record shall specify the quantity, by number or weight, of scrap tires removed, and the destination scrap tire facility to which the scrap tires will be transported.

F. Notification:

The permittee shall notify the Department within seven (7) calendar days of the name and vehicle registration plate number of any nonlicensed person who attempts to pickup or deposit scrap tires at this facility who is not exempt under COMAR 26.04.08.04A(2).

G. Record Keeping:

The permittee shall maintain, for a period of three (3) years, records of all scrap tires entering or exiting this facility. The records shall include, at a minimum, the following information:

1. The total type and quantity, by number or weight, of scrap tires including processed portions that are not raw materials that were received or generated at this facility. Records shall indicate:
 - a. The quantity of scrap tires which are generated in Maryland; and
 - b. The quantity of scrap tires which are generated out-of-state.
2. The total type and quantity, by number or weight, of scrap tires, raw materials, products, and waste residuals that were transferred from this facility.
3. The total type and quantity, by number or weight, of scrap tires that remained at this facility at the end of the reporting period.

4. The name and identification number of each hauler transporting scrap tires to this facility.
5. The type and quantity, by number or weight, of scrap tires transported by each hauler to this facility and the origin of the scrap tires. This information must be identified for each transaction.
6. The name and identification number of each hauler transporting scrap tires from this facility.
7. The type and quantity, by number or weight, of scrap tires transported by each hauler from this facility and the name, address, and identification number of the destination facility to which the scrap tires will be hauled. This information must be identified for each transaction, including adjustment tires separated and removed for retreading.
8. In the case of scrap tire transactions with consumers who are exempt from the Scrap Tire Hauler License requirements, the permittee shall maintain and report a running tally only.
9. The semiannual reports specified in Condition H "Reporting" of this approval.

H. Reporting:

The permittee shall submit to the Department a semiannual report on a form or in the format developed by the Department. Each report shall summarize the records required by Condition G "Record Keeping" of this approval. A report for the period of January through June of each year is due no later than August 1 following the reporting period. A report for the period of July through December of each year is due no later than February 1 following the reporting period.

I. Availability of Reports:

Except for information determined to be confidential under Section 10-617(d) of the State Government Article, Annotated Code of Maryland, all documents submitted to the Department pursuant to the record keeping and reporting requirements set forth in this approval shall be available for public inspection at the Department's offices.

J. Modification:

1. The Department may modify any term or condition of this approval if the modification is needed to reflect changes in local, State, or federal laws or regulations applicable to this type of an operation. Any modification shall also be made, as appropriate, to other documents, which are part of this approval.

2. The Department may modify this approval if any violation of a term or condition of this approval or any applicable law or regulation has occurred.
3. The Department may modify this approval upon receipt of a written request from the permittee stating the reasons for the proposed modification and providing supporting documentation.

K. Scrap Tire Operation Closure:

1. The permittee shall cease accepting scrap tires and immediately close the scrap tire portion of this facility's operation, if any of the following occur:
 - a. The scrap tire portion of this facility's operation has been terminated;
 - b. The permittee fails to maintain adequate financial assurance as required under COMAR 26.04.08.21. Publicly owned or operated scrap tire facilities, described in COMAR 26.04.08.21A, are exempt from the financial assurance requirements;
 - c. This approval or permit has been expired and its renewal is denied by the Department;
 - d. This approval or permit is revoked by the Department; or
 - e. The permittee receives a final order of the Department to cease scrap tire operation at this facility.
2. The permittee shall complete the closure procedures within ninety (90) calendar days of cessation of the scrap tire portion of this facility's operation, approval or permit revocation, approval or permit denial, or final order of the Department to cease the scrap tire operation at this facility in a manner consistent with the Scrap Tire Solid Waste Acceptance Facility Approval and Application. Under these procedures, the permittee shall:
 - a. At least sixty (60) calendar days before closure, notify the Department, local units of government, local land use authorities, and fire and health authorities of the closing of the scrap tire portion of this facility's operation;
 - b. Close public access to the scrap tire portion of this facility's operation upon cessation of the scrap tire operation;
 - c. Post a gate notice at all entrances of this facility indicating to the public that the scrap tire portion of this facility's operation is closed and indicating that the Department may be contacted for information regarding alternative sites where scrap tires can be deposited;

- d. Remove and transfer all scrap tires to a licensed primary scrap tire collection facility, licensed scrap tire recycler, or other approved facility;
 - e. Remove and transfer all scrap tire products to the market place; and
 - f. Notify the Department when the closure activities are completed.
3. The Department shall inspect the scrap tire portion of this facility and verify that it has been closed in compliance with the approved closure plan.

L. Suspension or Revocation:

1. In accordance with Section 9-262 of the Environment Article, Annotated Code of Maryland, the Department may suspend, revoke, or modify this approval, if the Department finds that:
- a. The application contained false or inaccurate information;
 - b. There has been a substantial deviation from:
 - i) The documents accepted by the Department as part of this approval application;
 - ii) Any requirement established by the Department;
 - c. A representative of the Department has been denied entry to any area in which activities regulated by this approval are conducted or to any documents required to be maintained by this approval;
 - d. There is or has been a violation of the terms and conditions of the approval or any applicable State law or regulation; or
 - e. There is any other good cause.
2. In addition to other reasons authorized by statute or regulation, this approval may be suspended, revoked, or modified if the permittee lacks, or is in violation of, any local, State, or federal approval necessary to conduct the activity authorized by this approval, including a local zoning or land use approval.

Part V: Standard Conditions (Applicable to All Solid Waste Acceptance Facilities):

A. Supervision:

This facility shall be under the supervision of a responsible individual present at the disposal site at all times during the operation.

B. Right of Entry:

The permittee shall allow the Department's authorized representatives, at reasonable times and upon presentation of credentials:

1. To enter this facility covered under this permit or where any records are required to be kept under the terms and conditions of this permit.
2. To have access to and copy any records required to be kept under the terms and conditions of this permit.
3. To inspect any equipment or process required in this permit.
4. To inspect any collection, treatment, pollution management or control facilities, or transport vehicles, required by this permit.
5. To sample any waste, groundwater, surface water, soil or vegetation on the site.
6. To obtain photographic documentation or evidence.

C. Controlled Access:

Access to this facility shall be controlled at all times. Gates, fencing, and other ingress/egress controls around the perimeter of this facility shall be adequate to control access when this facility is not in operation. All gates shall be locked when this facility is unattended. Access shall be limited to those times when authorized personnel are on duty at this facility.

D. Overall Operation:

The permittee shall take all measures necessary to control pollution, health hazards or nuisances. This facility shall be operated and maintained in such a manner as to prevent air, land, or water pollution, public health hazards or nuisances.

E. As-Built Plans:

The permittee shall submit to the Department two copies of certified as-built plans no later than ninety (90) days after completion of the work under this permit.

F. Inspection of Incoming Waste:

1. The permittee shall inspect all incoming loads of solid waste material to insure that no unacceptable waste types, as herein defined in Part III of this permit, are included in the load. The permittee may conduct this inspection by observing wastes as they are deposited, transferred or processed.
2. If an unacceptable solid waste is identified during the tipping and/or inspection process, the permittee shall reject the unacceptable solid waste and advise the generator or hauler of the reason for rejection.
3. If the source of an unacceptable solid waste is unknown, the permittee shall dispose off-site all discovered unacceptable solid waste in a manner consistent with all applicable laws and/or regulations.
4. The permittee shall immediately (within two hours) report to the Department at (410) 537-3315 or (866) 633-4686 after working hours all incidents of discovery of any unacceptable hazardous waste materials in a load of waste. The permittee shall then submit to the Department a written report within five working days following the discovery. When the source of waste is known, the written report shall include the source of the waste, the transporter of the waste, the circumstances of discovery, a description of efforts to secure and control the waste and any release of pollutants from the waste, the current location and if known, the final disposition of the waste. If the source of waste is unknown, the written report shall include the circumstances of discovery, a description of efforts to secure and control the waste and any release of pollutants from the waste, and the current location and final disposition of the waste. If the source of unacceptable hazardous waste is known, the permittee shall reject the waste material and advise the generator or hauler of the reason of rejection. If the source of unacceptable hazardous waste is unknown, the permittee shall separate and handle the waste material in accordance with the applicable requirements of COMAR 26.13.02 "Disposal of Controlled Hazardous Substances".

G. Personnel, Equipment and Maintenance:

The permittee shall provide adequate personnel and equipment to insure proper construction and operation of this facility. Provisions shall be made for equipment repair or replacement as required. Substitute equipment shall be obtained when breakdown or maintenance renders essential operating equipment inoperative for a period in excess of 24 hours during days of operation.

H. Roads:

The permittee shall provide all-weather access roads to the disposal site or receiving area, and to all required pollution control and monitoring systems and devices. Roads shall be maintained in such a manner so as to prevent the tracking of soil, ash, or waste onto any public road and/or to cause a public nuisance. If necessary, vehicles shall be cleaned prior to leaving this facility. Additional actions or facilities may be required at the discretion of the Department in order to control sediment tracking.

I. Dust and Noise Control:

1. Dust shall be controlled through the application of water to roads, operational procedures designed to limit disturbance of bare soils, and other practices approved by the Department. No chemical, oil or petroleum product shall be used for the control of dust without prior written approval from the Department.
2. Operations of the facility shall be conducted in a manner that conforms to the applicable noise provisions of COMAR 26.02.03.

J. Litter Control:

Scattering of wastes by wind shall be controlled and the entire site shall be policed daily or more often, as needed, to control litter.

K. Liquids Management:

1. Under no circumstances may any collected contaminated liquids be discharged by any means, except to the sanitary sewerage system or any permitted treatment facility, without written authorization from the Department. Any discharge to a sanitary sewerage system shall comply with the applicable provisions of the State's pre-treatment program, as described in COMAR 26.08.08.
2. Stormwater management at this facility shall be in accordance with the requirements of COMAR 26.17.02. Any point source discharge of pollutants to waters of the State is prohibited unless permitted by the Department. Any pollutants from the handling, transfer, or storage of wastes, including accidental spills and rainfall events, shall be collected or disposed of in a manner approved by the Department.

L. Fuel Storage:

Fueling of equipment and vehicles shall be conducted with care to avoid spilling or overfilling. The storage tanks and fuel distribution facilities shall be installed and maintained in accordance with the applicable requirements of COMAR

26.10.01 through COMAR 26.10.11 inclusive, and with the requirements of local fire prevention agencies. Any spilled fuel shall be cleaned up immediately. Disposal of spilled fuel may only take place at an incinerator, municipal landfill or oil handling facility permitted to accept this material.

M. Fire Control:

1. Solid waste may not be burned at this facility except as permitted by the Department.
2. The permittee shall take suitable measures to control and prevent fires that may occur during the operation of this facility.

N. Removed Pollutant Substances:

Unless previous written approval for disposal has been given by the Department, wastes such as solids, sludge, or other materials removed from or resulting from the treatment or control of waste waters or facility operations, shall be disposed of at a facility approved to accept such materials, and in a manner to prevent any removed substances or runoff from such substances from entering or from being placed in a location where they may enter the waters of the State.

O. Pollution Monitoring and Control Device Requirements:

1. All pollution control and ground and surface water monitoring systems (including stormwater management and sediment control systems) shall be installed in accordance with the manufacturer's recommendations and plans and specifications approved by the Department. All pollution control and ground and surface water monitoring systems shall remain operational and shall be maintained in accordance with the provisions of the approved plans and specifications.
2. Any incidence of damage to this facility's monitoring or pollution control systems shall be reported to the Department at (410) 537-3315 within two hours of the incident, or within two hours of the discovery of the damage if the damage occurred outside of working hours. All repairs needed to correct the damage shall be completed as soon as practical or as specified by the Department.
3. During construction and operation of this facility, the sediment and stormwater basins shall be cleaned out whenever (a) a clean-out elevation is reached; (b) construction is completed; (c) the amount of sediment reaches 50% capacity, and/or (d) as specified by the approved Sediment and Erosion Control Plan.

P. Penalties for Tampering:

Section 9-343 of the Environment Article, Annotated Code of Maryland, provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by fines, or by imprisonment, or by both.

Q. Records Retention:

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed, calibration and maintenance of instrumentation, original recordings from continuous monitoring instrumentation, and inspection results shall be retained by the permittee on-site or at another location upon written approval of the Department, for a minimum period of five years.

R. Annual Report:

An annual report shall be submitted to the Department concerning the operation and status of this facility for each calendar year that this facility is in operation. The annual report shall be for the calendar year ending December 31 and shall be submitted by March 1 of the following year on the form provided by the Department.

S. Duty to Provide Information:

The permittee shall furnish to the Department within a reasonable time, any information that the Department may request, to determine whether cause exists for modifying, revoking, reissuing, or terminating this permit; or to determine compliance with this permit.

T. Alterations:

Any modification to this facility or its operating plans must be approved in writing by the Department prior to implementation. Modifications include, but are not limited to, any changes that alter a significant structural feature, operational procedure, element of design, type of equipment or method of construction described in the approved plans and specifications for this facility and defined herein.

U. Application for Renewal:

1. At least two weeks before the expiration date of this permit, unless permission for a later date has been granted by the Department, the permittee shall submit a new application for renewal of the authorization to continue to operate under the provision of this permit or notify the Department of the intent to cease operating by the expiration date. In the

case of landfill systems, the application shall be submitted in accordance with Section 9-213 of the Environment Article, Annotated Code of Maryland. In the event that a timely and sufficient reapplication has been submitted and the Department is unable, through no fault of the permittee, to renew this permit before its expiration date, the terms and conditions of this permit are automatically continued and remain fully effective and enforceable.

2. The Department may refuse to renew this permit if the permittee violates the terms or conditions of this permit or State law and regulations, in accordance with Section 9-214 of the Environment Article, Annotated Code of Maryland.

V. Closure:

1. When operations end, the permittee shall close this facility in a manner that prevents erosion, health and safety hazards, nuisances, and pollution.
2. All remaining solid wastes, not properly disposed of, shall be transferred to a permitted facility for proper disposal.
3. If applicable, the surety bond for this facility as specified in Sections 9-211 or 9-211.1 of the Environment Article, Annotated Code of Maryland or other financial assurance required by State, federal, or local regulations, shall be utilized to the extent necessary to remediate the facility if the permittee does not close this facility in a proper manner, and the Department:
 - a. Notifies the permittee and corporate surety on the bond that the facility is not properly closed;
 - b. Specifies in the notice, the deficiencies that must be addressed;
 - c. Gives the permittee and the corporate surety a reasonable opportunity to correct the deficiencies and close the facility in accordance with the regulations of the Department; and
 - d. Authorizes the local governing body or other agency to use the surety bond to close the facility in accordance with the regulations of the Department.

W. Transfer of Permit or Ownership:

1. This permit is valid only for the permittee named and may not be transferred to another entity without first obtaining a new Refuse Disposal Permit from the Department for the new entity.

2. In the event of any change in control or ownership of the property, the permittee shall notify the succeeding owner by certified mail, of the existence of this permit and of any outstanding permit noncompliance, a minimum of thirty (30) days prior to transfer. A copy of this notification shall also be forwarded to the Department at the same time.

X. Compliance:

1. The permittee shall comply with the terms and conditions of this permit, and with all applicable federal, local and State laws and regulations.
2. If for any reason the permittee does not comply or is unable to comply with any of the terms and conditions of this permit, the permittee shall notify the Department at (410) 537-3315 on the same day or on the next working day, following any noncompliance. Within five (5) working days after this notification, the permittee shall provide the Department with the following information in writing:
 - a. Descriptions of the noncompliance, including dates, time, and type of noncompliance;
 - b. Cause of noncompliance;
 - c. Anticipated time the noncompliance is expected to continue or if such condition has been corrected;
 - d. Steps taken by the permittee to correct the noncompliance; and
 - e. Steps to be taken by the permittee to prevent recurrence of the noncompliance.

Y. Local Solid Waste Management Plan/Zoning and Land Use Requirements:

1. Nothing in this permit authorizes the construction or the operation of this facility when it is not in conformance with the local solid waste management plan, or zoning or land use requirements. The issuance of this permit does not prevent any duly authorized local authority from taking action to enforce applicable zoning, planning and land use requirements, or provisions of the local solid waste management plan.
2. This permit may be suspended or revoked upon a final, unreviewable determination that the permittee lacks, or is in violation of, any federal, State or local approval necessary to conduct the activity authorized by this permit.

Z. Civil and Criminal Liability:

Nothing in this permit shall be construed to neither preclude the institution of any legal action nor relieve the permittee from civil or criminal responsibilities and/or penalties for non-compliance with Title 9 of the Environment Article, Annotated Code of Maryland, or any federal, local or other State laws or regulations.

AA. Penalties for Violations of Permit Conditions:

Section 9-268 of the Environment Article, Annotated Code of Maryland, provides that, except for violations of Part III of that subtitle and violations enforced under Section 9-267 of that subtitle, the provisions of Sections 9-334 through 9-342 of Subtitle 3 of that title shall be used and shall apply to enforce violations of:

1. That subtitle;
2. Any regulation adopted under that subtitle; or
3. Any permit issued under that subtitle.

BB. Property Rights:

The issuance of this permit does not intend to convey any property rights in either real or personal property, or any exclusive privilege or franchise, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, State or local laws or regulations.

CC. Severability:

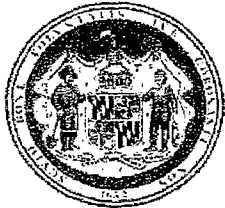
If any provision of this permit shall be held invalid for any reason, the remaining provisions shall remain in full force and effect, and such invalid provision shall be considered severed and deleted from this permit.

DD. Signatory Requirements:

All applications, request for alterations, renewal requests, or monitoring reports submitted to the Department shall be signed and verified in accordance with Section 1-201 of the Environment Article, Annotated Code of Maryland, by the permittee or authorized representative of this facility as being true.

Exhibit H

MARYLAND DEPARTMENT OF THE ENVIRONMENT



Larry Hogan
Governor

Land Management Administration Solid Waste Program

1800 Washington Boulevard, Suite 605, Baltimore, Maryland 21230-1719



Ben Grumbles
Secretary

Refuse Disposal Permit **No. 2017-WMI-0036**

ISSUE DATE: June 13, 2017

EXPIRATION DATE: June 12, 2022

Issued to: Curtis Bay Energy Limited Partnership

Authorizing: The continued operation of the Baltimore Regional Medical Waste Incinerator

Located at: 3200 Hawkins Point Road, Baltimore City, Maryland 21226

This permit is renewed pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland, and regulations promulgated thereunder, and is subject to the attached terms and conditions, and compliance with all applicable laws and regulations.

Edward M. Dexter, Administrator
Solid Waste Program

Hilary Miller, Director
Land Management Administration

REFUSE DISPOSAL PERMIT

No.: 2017-WMI-0036

Issue Date: June 13, 2017

Expiration Date: June 12, 2022

**STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard
Baltimore, Maryland 21230-1719**

This Refuse Disposal Permit is renewed pursuant to the provisions of Title 9 of the Environment Article, Annotated Code of Maryland, by the Maryland Department of the Environment, Land Management Administration (the "Department"), to:

**Curtis Bay Energy Limited Partnership (the "permittee")
3200 Hawkins Point Road
Baltimore, MD 21226**

for the continued operation of the

Baltimore Regional Medical Waste Incinerator

encompassing a

4-acre site

located at

**3200 Hawkins Point Road
Baltimore City, Maryland**

This permit is granted in accordance with the referenced documents in Part I, and subject to the terms and conditions specified in Parts II, III, and IV of this permit as follows:

- Part I:** Referenced Documents - permit application, plans and specifications and other pertinent documents submitted to the Department.
- Part II:** Facility Specific Conditions - conditions which amend all other permit conditions applicable to this facility should any discrepancies or conflicts exist.
- Part III:** General Conditions - conditions which are generally applicable to solid waste acceptance facilities similar to this facility.
- Part IV:** Standard Conditions - conditions which are generally applicable to all solid waste acceptance facilities.

Part I: Referenced Documents:

1. A revised Operations Manual (O&M) and plans for a flame-retardant rain and wind cover over the existing ash pad loading area, dated and received on May 18, 2017.
2. A Refuse Disposal Permit Renewal Application, dated and received on February 16, 2017.
3. A revised Appendix A of the O&M for the Reusable Sharps Container Program, dated June 23, 2014 and revised and received on August 26, 2014.
4. An updated O&M, dated January 23, 2012 and received on February 2, 2012.
5. A Refuse Disposal Permit Renewal Application, dated March 11, 2011 and received on March 18, 2011.
6. A proposal to install a roll-off conveyor, dated August 31, 2010 and received on September 10, 2010.
7. A proposal for a pre-engineered box conveyor, dated June 10, 2008 and received on July 17, 2008.
8. A Refuse Disposal Permit Renewal Application, dated December 14, 2005 and received on December 21, 2005.
9. A letter from Neil J. Ruther, Esquire and a copy of Articles of Amendment declaring a name change from Phoenix Services L.P. to Curtis Bay Energy L.P., dated June 28, 2005 and received on July 5, 2005.
10. A Refuse Disposal Permit Renewal Application and a copy of a letter of credit submitted by Phoenix Services, Inc., dated January 19, 2001 and received on January 24, 2001.
11. Procedural changes to the facility's special medical waste handling operations submitted by Phoenix Services, Inc., consisting of IIC Facility Description 6 Steam Sterilizer System Sheets 1 to 11; First Floor HVAC Plan, prepared by Orr Schelen Mayeron & Associates, Inc. (OSM); a pamphlet entitled Steam Sterilization Systems by Sterile Technology Industries, Inc.; a copy of the March 19, 1996 letter from the Department of Health and Mental Hygiene to Sterile Technology Industries, Inc.; Hepa Filter by Tri-Dim Filter Corporation Sheets 1 to 4; and Medical Waste Identification Sheets 1 to 8, dated April 7, 2000 and received on June 9, 2000.
12. Minor procedural changes to the facility's ash handling operations submitted by Phoenix Services, Inc., consisting of existing and updated Operations Manual's pages 25 through 32, and Process Flow Diagrams Schematics 1 and 2, dated June 14, 2000 and received on June 16, 2000.

13. First Amendment to Amended and Restated Certificate of Limited Partnership for Medical Waste Associates Limited Partnership to change the partnership's name to "Phoenix Services Limited Partnership", dated February 3, 1995. Articles of Amendment to the Charter of Medical Waste Associates, Inc. to change the corporation's name to "Phoenix Services, Inc.", dated February 3, 1995.
14. Detailed engineering drawings and specifications prepared by OSM and itemized as follows:
 - a. Grading Plan, Sediment and Erosion Control Plans, and Drainage Plans, dated November 21, 1989; and
 - b. Index and Technical Specifications, Floor Plans, Roof Plans, Building Cross Sections, Elevations, Wall Plans, Door Schedule and Details, Window Schedule and Details, Stairs Details, Ceiling Plans, Pit Foundation Plans, Pit Cross Section and Details, Foundation Plans Section and Details, Slab Plans Section and Details, Level Plans Section and Details, and Mezzanine and West Slab Plan Section and Details, dated January 8, 1990.
15. A report entitled "Geotechnical Exploration Baltimore Medical Waste Facility Baltimore, Maryland", prepared by Kidde Consultant, Inc., dated May 31, 1989 and received on June 19, 1989.
16. A report entitled "Baltimore Regional Medical Waste Facility Developer's Project Status Report to the City of Baltimore and the Northeast Maryland Waste Disposal Authority", prepared by OSM and submitted by Medical Waste Associates, Inc., dated March 15, 1989 and received on March 22, 1989.
17. A report entitled "Permit Application Package, Baltimore Medical Waste Facility", prepared by OSM, dated July 1989 and received on July 24, 1989.
18. A report entitled "Supplemental Permit Application Information for the Baltimore Area Medical Waste Disposal Project", submitted by Medical Waste Associates, Inc., dated December 1988 and received on December 9, 1988.
19. A report entitled "Permit Application Package for the Baltimore Area Medical Waste Disposal Project" submitted by Medical Waste Associates, Inc., dated September 1988 and received on September 21, 1988. This report contains a Refuse Disposal Permit Application, dated July 29, 1988.
20. A report entitled "Information Summary for Medical Care Institutions" for the Baltimore Area Medical Waste Disposal Project, prepared by Medical Waste Associates, Inc. and Consumat Systems, Inc., dated June 1988.

Part II: Facility Specific Conditions:

A. Acceptable Waste:

The permittee may only accept and incinerate solid waste as specified in this facility's Refuse Disposal Permit Application and its supporting documents identified in Part I of this permit. The acceptable solid waste includes:

- Special medical waste;
- Sharps;
- Animal carcasses;
- Non-hazardous pharmaceutical waste;
- Medical records; and
- Confidential documents and materials.

B. Steam Sterilization:

The permittee may also treat special medical waste using steam sterilization in accordance with the plans and specifications and other pertinent documents identified in Part I of this permit.

C. Recycling Sharps Container Program:

The permittee may operate a sharps container sterilization system within the incinerator building. This operation includes the collection of sharps containers brought from health care facilities by certified haulers and the emptying, washing and sanitizing of the reusable sharps containers.

D. Hours of Construction and Operation:

1. The permittee may operate this facility 24 hours per day, seven days a week.
2. A statement of the days and hours of operation shall be posted at the entrance to the facility.
3. Emergency conditions or unusual circumstances shall be reported to the Department at (410) 537-3315 during normal business hours, or via the Department's Emergency Network at (866) 633-4686 at other times.

E. Capacity:

1. The maximum amount of solid waste accepted at this facility shall not exceed 62,050 tons per year.

2. The Department reserves the right to restrict the volume of material accepted at this facility upon a determination that nuisance conditions, harborage of disease vectors, fugitive dust, blowing litter, odors, or other conditions which are prejudicial to the quality of the environment or the public health, safety or comfort have occurred or are likely to occur as a result of this practice.

F. Bond:

As a condition for obtaining and maintaining this permit, the permittee shall maintain evidence of a surety bond or equivalent security payable to Baltimore City in the amount of \$150,000. The amount of the security may be reviewed and approved by the Department whenever the permit is renewed.

G. Plans and Specifications:

Approved plans and specifications under Part I and Part II will satisfy the requirements under Parts III and IV of the permit conditions. The approved plans and specifications override the requirements under these conditions to the extent that they do not conflict with applicable laws or regulations unless a variance has been granted under the Code of Maryland Regulations 26.04.07.26. However, these conditions do remain valid and enforceable.

Part III: General Conditions (Applicable to Special Medical Waste Incinerators):

A. Waste Acceptance Requirements:

1. The permittee may accept solid waste as specified in this facility's Refuse Disposal Permit Application and its supporting documents identified in Part I of this permit, except as restricted or prohibited in this condition.
2. The permittee may also accept the following classes of waste only if manifested in shipping papers as required by the applicable regulations, marked with the universal biohazard symbol, and transported to the facility in certified vehicles:
 - a. Medical wastes, including wastes that are generated in the diagnosis, treatment, or immunization of humans or animals or in related research, in the production/testing of biological (vaccines), and in the preparation and administration of chemotherapy agents;
 - b. Medical records, other confidential documents, and materials;
 - c. Non-hazardous pharmaceutical including over-the-counter medications, prescription drugs, controlled substances, and other non-hazardous pharmaceutical waste products from manufacturers and laboratories such as labels and pharmaceutical containers;
 - d. Regulated garbage generated on board a conveyance during international or interstate movements as defined in Code of Federal Regulations 7 CFR Section 330.401 - United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS); and
 - e. Other special medical waste including, but not limited to, domestic or office cleanup due to accident, crime scene, terrorist attack or act of war.
3. The following waste materials are specifically prohibited from being accepted at this facility, regardless of their origin or type:
 - a. Radioactive hazardous substance (RHS) as defined in Code of Maryland Regulations (COMAR) 26.15.02, if the exposure rate of radiation exceeds the limit set by this Department's Air and Radiation Management Administration (ARMA). RHS that exceeds the allowable limits shall be handled in accordance with a specified procedure approved by ARMA; and
 - b. Controlled hazardous substances as defined in COMAR 26.13.01.03B(10-1).

4. The Department upon written request by the permittee may amend the list in Part III.A. If the Department denies the applicant's request or unilaterally determines to limit or exclude a waste stream from being accepted at this facility, the applicant will be notified of the Department's decision and will be provided an opportunity for a hearing in accordance with the Administrative Procedure Act.

B. Waste Handling:

1. The permittee shall comply with the requirements of COMAR 10.06.06, and the Occupational Safety and Health Standard as specified in Code of Federal Regulations 29 CFR Section 1910.1030 with regard to handling and treatment of special medical waste.
2. Sharps, as defined in COMAR 26.13.11.02B(8) and 10.06.06.02B(21), shall be handled and treated in accordance with COMAR 10.06.06.05.
3. Personnel handling special medical waste shall be properly trained and instructed in the safe handling of infectious materials, and in the equipment and procedures used at the facility.
4. The integrity of the packaging shall be preserved throughout the waste handling operation at this facility, except as necessary to perform inspections.
5. The permittee shall provide all customers with explicit instructions on waste restriction and the waste handling and packaging procedures as required by this permit. Special medical wastes shall be collected in three (3) mil thick or equivalent strength, leak proof, tear resistant, and non-chlorinated plastic bags, which shall be tied tightly, and then contained and sealed securely in corrugated cardboard boxes. All contaminated sharps such as needles, scalpels, blades, glass, and other pointed or sharp-edged objects shall be secured in the impervious and puncture proof containers.
6. Activities involving the unloading, separation, reduction, or alteration of waste shall be conducted in an enclosed building.
7. Waste unloading shall be restricted to the waste receiving area, in such a manner that waste may be monitored easily and handled readily with available equipment.
8. No waste handling activities shall be performed outdoors on site except during emergency bypass. During emergency bypass, properly packaged wastes may be transferred from truck to truck if necessary precautions are taken so those packages are not punctured or otherwise changed during transfer. The transfer shall be such that the boxes will not be exposed during precipitation.

9. All waste not actually being incinerated shall be confined to the unloading area, which shall be maintained free of nuisances.
10. All waste shall be incinerated or transferred off-site during emergency conditions or equipment failure before it putrefies.
11. The permittee may not store untreated waste on-site for longer than 10 (ten) days unless refrigerated. Untreated waste may not be stored over 20 (twenty) days, even if refrigerated. Refrigerated storage may be extended beyond the 20- (twenty) day limit upon written approval from the Department.
12. No waste shall be fed into the incinerator during the start-up and shutdown periods unless the temperatures required by the ARMA are complied with.

C. Building and Site Maintenance:

1. The facility shall be maintained in a clean and sanitary condition. The following conditions are required:
 - a. Plumbing, sanitary facilities, and wastewater disposal devices shall be properly maintained;
 - b. Floors shall be well drained and free from standing water;
 - c. Areas adjacent to the building shall be free of litter and standing water; and
 - d. Grass shall be neatly trimmed.
2. The waste receiving/unloading area, waste handling equipment, and transport vehicles shall be cleaned and decontaminated as frequently as is necessary by applying an approved hospital-type disinfectant in accordance with manufacturers' recommendations. Any applied disinfectant and spilled liquids shall be cleaned up with absorbent materials. All cleanup material shall then be readily contained and incinerated at high temperatures on-site if the material is non-hazardous and the incinerator is properly designed and constructed to handle free liquids.
3. The permittee shall not clean vehicles or equipment that have been previously contaminated with infectious materials outdoors, unless decontaminated with an appropriate decontamination solution. Otherwise, all cleaning of vehicles or equipment will be conducted indoors, on-site, and in an area which is designated to direct liquid to an appropriate drain or holding tank that can be readily cleaned and disinfected.
4. Any fire, explosion, or other accident that may cause public health or safety hazards resulting from the operation of the facility shall be reported within two (2) hours to the Department at (410) 537-3315 during normal business hours, or via the Department's Emergency Network at (866) 633-4686 at other times, and followed up

by a written report to the Department within five (5) working days.

D. Incinerator Ash Testing and Disposal:

1. The waste characteristics of an eight-hour composite sample of the incinerator ash shall be determined on a semi-annual basis by the Toxicity Characteristic Leaching Procedure Test (TCLP), Test Method 1311, which is published in the EPA Publication SW-846. The permittee does not have to comply with the provisions of this paragraph for ash which is disposed of as a hazardous waste in compliance with the applicable regulations. Results of the TCLP testing shall be submitted to the Department within 45 (forty-five) days of any sampling event.
2. Ash and non-combustible material from incineration shall be sampled and analyzed quarterly to determine the free liquid content of the ash. The free liquid content shall be determined by the EPA Method 9095 Paint Filter Liquids Test as outlined in the EPA Publication SW-846.
3. Ash and non-combustible material from incineration shall be stored in the designated ash containers and in leak-proof dumpsters, and shall be transported off-site to permitted facilities for disposal as frequently as is necessary to maintain capacity for additional ash storage. All dumpsters containing ash and non-combustible material shall be stored on the property and shall be covered, leak-proof, and secured in a manner so as to eliminate the potential of contaminating the waters and land of the State.
4. The permittee may dispose of the incinerator ash, non-combustibles and other residual solid wastes if evaluated to be non-hazardous and free of liquid at municipal landfills, which are in compliance with the current design standards contained for municipal landfills.
5. The permittee shall transport the ash in covered trucks or covered containers in such a manner as to prevent leakage of liquid on public roads and release of material during transport.
6. The required Department's Solid Waste Tonnage Report shall also include the quantity of unburned solid waste transported each month to a permitted or authorized solid waste acceptance facility. Total quantity of waste transported to each facility shall be included and reported in tons.

Part IV: Standard Conditions (Applicable to All Solid Waste Acceptance Facilities):

A. Supervision:

This facility shall be under the supervision of a responsible individual present at the disposal site at all times during the operation.

B. Right of Entry:

The permittee shall allow the Department's authorized representatives, at reasonable times and upon presentation of credentials:

1. To enter this facility covered under this permit or where any records are required to be kept under the terms and conditions of this permit.
2. To have access to and copy any records required to be kept under the terms and conditions of this permit.
3. To inspect any equipment or process required in this permit.
4. To inspect any collection, treatment, pollution management or control facilities, or transport vehicles, required by this permit.
5. To sample any waste, groundwater, surface water, soil or vegetation on the site.
6. To obtain photographic documentation or evidence.

C. Controlled Access:

Access to this facility shall be controlled at all times. Gates, fencing, and other ingress/egress controls around the perimeter of this facility shall be adequate to control access when this facility is not in operation. All gates shall be locked when this facility is unattended. Access shall be limited to those times when authorized personnel are on duty at this facility.

D. Overall Operation:

The permittee shall take all measures necessary to control pollution, health hazards or nuisances. This facility shall be operated and maintained in such a manner as to prevent air, land, or water pollution, public health hazards or nuisances.

E. As-Built Plans:

The permittee shall submit to the Department two copies of certified as-built plans no later than ninety (90) days after completion of the work under this permit.

F. Inspection of Incoming Waste:

1. The permittee shall inspect all incoming loads of solid waste material to insure that no unacceptable waste types, as herein defined in Part III of this permit, are included in the load. The permittee may conduct this inspection by observing wastes as they are deposited, transferred or processed.
2. If an unacceptable solid waste is identified during the tipping and/or inspection process, the permittee shall reject the unacceptable solid waste and advise the generator or hauler of the reason for rejection.
3. If the source of an unacceptable solid waste is unknown, the permittee shall dispose off-site all discovered unacceptable solid waste in a manner consistent with all applicable laws and/or regulations.
4. The permittee shall immediately (within two hours) report to the Department at (410) 537-3315 or (866) 633-4686 after working hours all incidents of discovery of any unacceptable hazardous waste materials in a load of waste. The permittee shall then submit to the Department a written report within five working days following the discovery. When the source of waste is known, the written report shall include the source of the waste, the transporter of the waste, the circumstances of discovery, a description of efforts to secure and control the waste and any release of pollutants from the waste, the current location and if known, the final disposition of the waste. If the source of waste is unknown, the written report shall include the circumstances of discovery, a description of efforts to secure and control the waste and any release of pollutants from the waste, and the current location and final disposition of the waste. If the source of unacceptable hazardous waste is known, the permittee shall reject the waste material and advise the generator or hauler of the reason of rejection. If the source of unacceptable hazardous waste is unknown, the permittee shall separate and handle the waste material in accordance with the applicable requirements of COMAR 26.13.02 "Disposal of Controlled Hazardous Substances".

G. Personnel, Equipment and Maintenance:

The permittee shall provide adequate personnel and equipment to insure proper construction and operation of this facility. Provisions shall be made for equipment repair or replacement as required. Substitute equipment shall be obtained when breakdown or maintenance renders essential operating equipment inoperative for a period in excess of 24 hours during days of operation.

H. Roads:

The permittee shall provide all-weather access roads to the disposal site or receiving area, and to all required pollution control and monitoring systems and devices. Roads shall be maintained in such a manner so as to prevent the tracking of soil, ash, or waste onto any public road and/or to cause a public nuisance. If necessary, vehicles shall be cleaned prior to leaving this facility. Additional actions or facilities may be required at the discretion of the Department in order to control sediment tracking.

I. Dust and Noise Control:

1. Dust shall be controlled through the application of water to roads, operational procedures designed to limit disturbance of bare soils, and other practices approved by the Department. No chemical, oil or petroleum product shall be used for the control of dust without prior written approval from the Department.
2. Operations of the facility shall be conducted in a manner that conforms to the applicable noise provisions of COMAR 26.02.03. This permit does not authorize the violation of any local noise control laws or ordinances which may be enforced by the local government.

J. Litter Control:

Scattering of wastes by wind shall be controlled and the entire site shall be policed daily or more often, as needed, to control litter.

K. Liquids Management:

1. Under no circumstances may any collected contaminated liquids be discharged by any means, except to the sanitary sewerage system or any permitted treatment facility, without written authorization from the Department. Any discharge to a sanitary sewerage system shall comply with the applicable provisions of the State's pre-treatment program, as described in COMAR 26.08.08.
2. Stormwater management at this facility shall be in accordance with the requirements of COMAR 26.17.02. Any point source discharge of pollutants to waters of the State is prohibited unless permitted by the Department. Any pollutants from the handling, transfer, or storage of wastes, including accidental spills and rainfall events, shall be collected or disposed of in a manner approved by the Department.

L. Fuel Storage:

Fueling of equipment and vehicles shall be conducted with care to avoid spilling

or overfilling. The storage tanks and fuel distribution facilities shall be installed and maintained in accordance with the applicable requirements of COMAR 26.10.01 through COMAR 26.10.11 inclusive, and with the requirements of local fire prevention agencies. Any spilled fuel shall be cleaned up immediately. Disposal of spilled fuel may only take place at an incinerator, municipal landfill or oil handling facility permitted to accept this material.

M. Fire Control:

1. Solid waste may not be burned at this facility except as permitted by the Department.
2. The permittee shall take suitable measures to control and prevent fires that may occur during the operation of this facility.

N. Removed Pollutant Substances:

Unless previous written approval for disposal has been given by the Department, wastes such as solids, sludge, or other materials removed from or resulting from the treatment or control of waste waters or facility operations, shall be disposed of at a facility approved to accept such materials, and in a manner to prevent any removed substances or runoff from such substances from entering or from being placed in a location where they may enter the waters of the State.

O. Pollution Monitoring and Control Device Requirements:

1. All pollution control and ground and surface water monitoring systems (including stormwater management and sediment control systems) shall be installed in accordance with the manufacturer's recommendations and plans and specifications approved by the Department. All pollution control and ground and surface water monitoring systems shall remain operational and shall be maintained in accordance with the provisions of the approved plans and specifications.
2. Any incidence of damage to this facility's monitoring or pollution control systems shall be reported to the Department at (410) 537-3315 within two hours of the incident, or within two hours of the discovery of the damage if the damage occurred outside of working hours. All repairs needed to correct the damage shall be completed as soon as practical or as specified by the Department.
3. During construction and operation of this facility, the sediment and stormwater basins shall be cleaned out whenever (a) a clean-out elevation is reached; (b) construction is completed; (c) the amount of sediment reaches 50% capacity, and/or (d) as specified by the approved Sediment and Erosion Control Plan.

P. Penalties for Tampering:

Section 9-343 of the Environment Article, Annotated Code of Maryland, provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by fines, or by imprisonment, or by both.

Q. Records Retention:

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed, calibration and maintenance of instrumentation, original recordings from continuous monitoring instrumentation, and inspection results shall be retained by the permittee on-site or at another location upon written approval of the Department, for a minimum period of five years.

R. Annual Report:

An annual report shall be submitted to the Department concerning the operation and status of this facility for each calendar year that this facility is in operation. The annual report shall be for the calendar year ending December 31 and shall be submitted by March 1 of the following year on the form provided by the Department.

S. Duty to Provide Information:

The permittee shall furnish to the Department within a reasonable time, any information that the Department may request, to determine whether cause exists for modifying, revoking, reissuing, or terminating this permit; or to determine compliance with this permit.

T. Alterations:

Any modification to this facility or its operating plans must be approved in writing by the Department prior to implementation. Modifications include, but are not limited to, any changes that alter a significant structural feature, operational procedure, element of design, type of equipment or method of construction described in the approved plans and specifications for this facility and defined herein.

U. Application for Renewal:

1. At least two weeks before the expiration date of this permit, unless permission for a later date has been granted by the Department, the permittee shall submit a new application for renewal of the authorization to continue to operate under the provision of this permit or notify the Department of the intent to cease operating by the expiration date. In the

case of landfill systems, the application shall be submitted in accordance with Section 9-213 of the Environment Article, Annotated Code of Maryland. In the event that a timely and sufficient reapplication has been submitted and the Department is unable, through no fault of the permittee, to renew this permit before its expiration date, the terms and conditions of this permit are automatically continued and remain fully effective and enforceable.

2. The Department may refuse to renew this permit if the permittee violates the terms or conditions of this permit or State law and regulations, in accordance with Section 9-214 of the Environment Article, Annotated Code of Maryland.

V. Closure:

1. When operations end, the permittee shall close this facility in a manner that prevents erosion, health and safety hazards, nuisances, and pollution.
2. All remaining solid wastes, not properly disposed of, shall be transferred to a permitted facility for proper disposal.
3. If applicable, the surety bond for this facility as specified in Sections 9-211 or 9-211.1 of the Environment Article, Annotated Code of Maryland or other financial assurance required by State, federal, or local regulations, shall be utilized to the extent necessary to remediate the facility if the permittee does not close this facility in a proper manner, and the Department:
 - a. Notifies the permittee and corporate surety on the bond that the facility is not properly closed;
 - b. Specifies in the notice, the deficiencies that must be addressed;
 - c. Gives the permittee and the corporate surety a reasonable opportunity to correct the deficiencies and close the facility in accordance with the regulations of the Department; and
 - d. Authorizes the local governing body or other agency to use the surety bond to close the facility in accordance with the regulations of the Department.

W. Transfer of Permit or Ownership:

1. This permit is valid only for the permittee named and may not be transferred to another entity without first obtaining a new Refuse Disposal Permit from the Department for the new entity.

2. In the event of any change in control or ownership of the property, the permittee shall notify the succeeding owner by certified mail, of the existence of this permit and of any outstanding permit noncompliance, a minimum of thirty (30) days prior to transfer. A copy of this notification shall also be forwarded to the Department at the same time.

X. Compliance:

1. The permittee shall comply with the terms and conditions of this permit, and with all applicable federal, local and State laws and regulations.
2. If for any reason the permittee does not comply or is unable to comply with any of the terms and conditions of this permit, the permittee shall notify the Department at (410) 537-3315 on the same day or on the next working day, following any noncompliance. Within five (5) working days after this notification, the permittee shall provide the Department with the following information in writing:
 - a. Descriptions of the noncompliance, including dates, time, and type of noncompliance;
 - b. Cause of noncompliance;
 - c. Anticipated time the noncompliance is expected to continue or if such condition has been corrected;
 - d. Steps taken by the permittee to correct the noncompliance; and
 - e. Steps to be taken by the permittee to prevent recurrence of the noncompliance.

Y. Local Solid Waste Management Plan/Zoning and Land Use Requirements:

1. Nothing in this permit authorizes the construction or the operation of this facility when it is not in conformance with the local solid waste management plan, or zoning or land use requirements. The issuance of this permit does not prevent any duly authorized local authority from taking action to enforce applicable zoning, planning and land use requirements, or provisions of the local solid waste management plan.
2. This permit may be suspended or revoked upon a final, unreviewable determination that the permittee lacks, or is in violation of, any federal, State or local approval necessary to conduct the activity authorized by this permit.

Z. Civil and Criminal Liability:

Nothing in this permit shall be construed to neither preclude the institution of any legal action nor relieve the permittee from civil or criminal responsibilities and/or penalties for non-compliance with Title 9 of the Environment Article, Annotated Code of Maryland, or any federal, local or other State laws or regulations.

AA. Penalties for Violations of Permit Conditions:

Section 9-268 of the Environment Article, Annotated Code of Maryland, provides that, except for violations of Part III of that subtitle and violations enforced under Section 9-267 of that subtitle, the provisions of Sections 9-334 through 9-342 of Subtitle 3 of that title shall be used and shall apply to enforce violations of:

1. That subtitle;
2. Any regulation adopted under that subtitle; or
3. Any permit issued under that subtitle.

BB. Property Rights:

The issuance of this permit does not intend to convey any property rights in either real or personal property, or any exclusive privilege or franchise, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, State or local laws or regulations.

CC. Severability:

If any provision of this permit shall be held invalid for any reason, the remaining provisions shall remain in full force and effect, and such invalid provision shall be considered severed and deleted from this permit.

DD. Signatory Requirements:

All applications, request for alterations, renewal requests, or monitoring reports submitted to the Department shall be signed and verified in accordance with Section 1-201 of the Environment Article, Annotated Code of Maryland, by the permittee or authorized representative of this facility as being true.

District of Maryland

WHEELABRATOR BALTIMORE, L.P., et al.

Plaintiff(s)

V.

MAYOR AND CITY COUNCIL OF BALTIMORE

Defendant(s)

Civil Action No. 1:19-cv-01264

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* MAYOR AND CITY COUNCIL OF BALTIMORE
Serve On: City Solicitor, City Hall
100 N. Holiday Street, Room 101
Baltimore, MD 21202

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

Roy Prather III, Bar No. 20157
Beveridge & Diamond, P.C.
201 North Charles Street, Suite 2210
Baltimore, MD 21201

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 04/30/2019

Signature of Clerk or Deputy Clerk

Civil Action No. 1:19-cv-01264

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: